

Turning Land into Capital: Assessing A Decade of Policy in Practice

A Report Commissioned by the Land Information Working Group (LIWG)

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Land for sale along the 450 Year Road Project

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Abbreviations

CDE	Centre for Development and Environment
DOLA	Department of Land Administration
DP	Development Partners
ESIA	Environmental and Social Impact Assessment
IEE	Initial Environmental Evaluation
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
KPL	<i>Khaosan Pathet Lao</i>
LCI	Lao Land Concessions Inventory
LIWG	Land Information Working Group
MAF	Ministry of Agriculture and Forestry
MOF	Ministry of Finance
MOIC	Ministry of Industry and Commerce
MONRE	Ministry of Natural Resources and Environment
MOU	Memorandum of Understanding
MPI	Ministry of Planning and Investment
NA	National Assembly
NEM	New Economic Mechanism
NLMA	National Land Management Authority
NLP	National Land Policy
PAFO	Provincial Agriculture and Forestry Office
PMO	Prime Minister's Office
PONRE	Provincial Office of Natural Resources and Environment
SLLC	State Land Lease and Concession
TLIC	Turning Land into Capital
QI	Quality of Investment
VT	Vientiane Times
WTO	World Trade Organization

Executive Summary

More than ten years after its original formulation, the Lao government is now questioning the effectiveness of the “Turning Land into Capital” (*kan han thi din pen theun*) policy in generating economic value from the commercialization of land, facilitating local economic development, and reducing state spending on infrastructure. The government is concerned that the Turning Land into Capital (hereafter TLIC) policy has not lived up to its goals due to 1) inefficient and ineffective collection of revenues from land investment projects, 2) a lack of specific regulations to guide the policy’s implementation that has led to abuse, and 3) the policy’s generation of negative social-environmental impacts and conflicts. In the last few years, the government has embarked on a series of land-related legal and policy reforms, including the recently issued Central Party Resolution on Land Management¹ (hereafter Party Resolution on Land) and the ongoing revision of the 2003 Land Law and related decrees, potentially including a decree on TLIC.

Such reform efforts present an opportunity to reflect on how the TLIC policy has been interpreted and implemented over the past ten years, and to offer recommendations for its reform and future direction. It also provides a chance to consider the engagement of the Land Information Working Group (LIWG) and its network organizations with TLIC, a decade since LIWG’s initial publication on the topic². To do so, a literature review, interviews with government and non-government actors, and an analysis of data from the piloting of the Lao Land Concessions Inventory and Quality of Investment projects in Luang Prabang and Xieng Khuang provinces were conducted. The report covers 1) a brief history of the concept and its varying interpretations; 2) how TLIC has operated as a policy in practice, particularly its size, scope, and social/economic performance; 3) the ways in which it is currently being reformed; and 4) recommendations for the ongoing reforms and civil society policy advocacy and engagement efforts.

One of the central problems with the TLIC policy is its lack of specificity, largely because it was never formalized as a written and legally authorized policy. As a result, TLIC has been interpreted and implemented in diverse ways, making its impacts difficult to assess. Interviewees for this review showed a range of understanding with regard to the purpose of the policy, including 1) generating broad-based economic value, 2) funding government projects, 3) privatizing and commodifying state land, and 4) retaining Lao control over land as a national or public asset. Similarly, interviewees identified a range of different business models that exemplified TLIC in practice: 1) trading land for the construction of infrastructure (primarily government offices and public roads); 2) land-based financing of infrastructure (in which additional land next to planned infrastructure projects is expropriated and sold to pay for their construction); 3) state land leases and concessions; and 4) land titling and the creation of land markets.

Although TLIC was developed as a policy idea at the 8th Party Congress in 2006, the government experimented with the ideas and models behind it much earlier. Since the market transition initiated by the New Economic Mechanism in 1986, the Lao government has often granted land and resource concessions to private companies in exchange for the development of those resources and the construction of related infrastructure. Exchanges of timber for road development were common in the 1990s while land concessions for agriculture, tree plantations, mining and other commercial ventures dominated the 2000s. The emerging logic was to use natural resources as a form of capital to “purchase” infrastructure. Later, this became a logic for turning such resources into government revenue and local economic development. This is the essence of turning land into capital, or *theun* in Lao, which has a broader meaning than capital, referring to funding, finance, and investment more generally.

Since the formulation of the TLIC policy in 2006, the government has sought to both promote and regulate land-related investment projects of TLIC, in part due to their increasingly apparent negative social-environmental impacts, especially those resulting from state land leases and concessions. Moratoriums on certain types of concessions have been put in place since 2007, the latest restricting concessions for mining, as well as eucalyptus and rubber plantations. Two land concession inventories were conducted to track the extent of concessions and their impacts, and to guide policy changes. The government’s current reflections on the direction of the TLIC policy, along with efforts to reform land-related legislation fit within this history of reform.

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It is challenging to assess the impacts of the TLIC policy since it is not always clear which types of projects and forms of land commercialization fall under the classification of TLIC. Furthermore, there is little to no data publicly available on some types of TLIC projects, such as the exchange of land for infrastructure and land-based financing of infrastructure. There is, however, significant data available on state land leases and concessions due to the two land concession inventories, which were conducted from 2007 to 2011, and 2014 to 2017. Data from the pilot phase of the second inventory conducted in Luang Prabang and Xieng Khuang provinces show that there has been a significant increase in the number of land concession projects between the first and second inventories; the number of agricultural and tree plantation projects doubled. The increase in granted projects can be interpreted as a consequence of an overall more favorable investment climate for which the TLIC policy is an important driver. In terms of compliance, many projects lack proper legal documentation, such as environmental impact assessments or project development agreements. Additionally, many of the projects did not include agreements to build or improve infrastructure in local areas.

These shortcomings are to some degree reflected in the Party Resolution on Land and the ongoing revisions of the Land Law. While TLIC's prominent place in the Party Resolution suggests that some version of the concept is here to stay, the Party Resolution nonetheless recognizes the serious nature of land conflicts in the country and puts forward some moderately progressive ideas. For example, the recognition of collective and customary land rights are proposed (although not specified), as is the position that land use rights should only be revoked for public-interest activities. These positions reflect earlier inputs from non-government partners on the National Land Policy (NLP), which was eventually aborted by the Party to pursue the Resolution. Although the revised Land Law is still under review, interviews with officials on the drafting committee suggest that issues of concession size, duration, mapping, planning and on-time implementation are all being seriously discussed.

There are still important changes that can be made to ensure that TLIC, when formalized, reduces rather than exacerbates negative social and environmental impacts, and generates economic value that is shared across a broad section of the population. Most importantly, TLIC needs to be clearly formalized, whether through law, decree or both, in order to end the earlier pattern of *abuse through vagueness*. Formalization should specify what types of projects qualify as TLIC; what steps should be followed to implement them and hold them accountable; and various methods for ensuring that the economic value of TLIC projects is fairly distributed, both to communities at TLIC project sites and to the broader society at large.

There are also important lessons to be learned from current land reforms for the advocacy engagements of non-government partners. First, continue engaging in broad-based advocacy that is not only aimed at influencing policy in the short term but intends to shape the ways in which the policy issues are understood and conceived. For example, changing ideas on policy likely had some effect on the Party Resolution, even though it was written behind closed doors. Second, become involved in transparency efforts related to the collection, analysis, storage, and dissemination of data and information on TLIC projects. Third, develop a policy stance towards the life cycle of TLIC projects and their re-investment stages. Fourth, strengthen and empower institutions that regulate private investment. Fifth, continue efforts to enhance land tenure security, not only through land titling, but also through participatory land use planning, legal rights education, and community-level organizing.

1. Introduction

In July 2016, Laos's new prime minister called for a review of the government's policy on **"Turning Land into Capital"** (*kan han thi din pen theun* in the Lao language). His remarks came at a meeting of cabinet ministers and provincial governors and were reported by Laos's official news service, *Khaosan Pathet Lao* (KPL).³ KPL reported that the prime minister had been motivated by a report by Laos's Ministry for Planning and Investment, which raised questions about a policy "which was initially designed to reduce the spending of state budget on infrastructure development, [yet] has faced many challenges over the past years because several projects undertaken according to this policy haven't proved effective and have caused loopholes in revenue collection." Social concerns weighed heavily as well. In addition to economic loopholes, KPL reported that the policy had not yet been "legally guaranteed," and that this had led to its uneven implementation, "causing negative impacts on the people and creating more conflicts in society."

Harnessing the commodification of land and resources for development is never easy, given the multiple land uses and competing interests involved. Even before TLIC was coined as a policy idea, Lao authorities have long been trying to govern an existing social landscape, while simultaneously developing a new economic one. From forestry to mining to energy, resource development projects are tasked with managing and mitigating the overlaps between existing uses of land by local people and new, often larger-scale and more disruptive land uses. Production regimes for commodities like timber, copper, rubber and hydropower impact existing patterns of land, forest and water use, and thus require administrative and regulatory institutions to mitigate the negative social impacts of large-scale development and compensate impacted populations where these occur. These are inherently difficult processes.

The TLIC policy is a more recent addition to this wider landscape, and yet the interpretation of its meaning differs among the actors involved. Expatriate donors and development practitioners interviewed for this study often understood the policy in quite specific terms; as an exchange of government land and resources for infrastructure or some other type of development, often via the granting of state land concessions. Lao interviewees, including those working for the government as well as those working for non-government organizations, tended to view TLIC more broadly, as a drive to generate economic benefits for the Lao state and its people from land that is not being used productively. Understandings of how the policy actually operated in practice differed even more widely. This lack of consensus about what TLIC encompasses has important implications for how the impacts of the policy are evaluated and addressed in policy and legal reform.

The lack of a common understanding of TLIC is not surprising, however, as it was never formalized as a written and legally authorized policy. The phrase can be traced to the 8th Party Congress in March 2006. Shortly before the meeting, the Ministry of Finance, the previous institutional home of the Department of Lands, oversaw the drafting of a decree on turning state property into capital, but it was never finalized. Thus, TLIC has largely entered public discourse via brief descriptions in political documents like the 8th Party Congress report, the Party Resolution on Land⁴, and invocations by government officials in speeches or in regard to specific cases. Interviews conducted with government officials for this research project have also provided more insight into how it is understood, often in diverse and contradictory ways. If there is any common understanding of the policy, it is viewed as a mechanism for generating economic value from land that ostensibly had low productivity by allowing it to enter into various forms of market and commodity relations. This resonates with the Lao phrasing of the policy in which the term for "capital" (*theun*) can also mean "funds" or "financing", and thus describes a more general process of generating revenue or money from land.

The Prime Minister’s initiative to review the TLIC “policy” comes a decade after it first entered public discourse, and reflects a widely held view, especially among Lao government officials and development practitioners, that TLIC’s implementation has failed to live up to the policy’s laudable goals. Rising debts on road and other projects raise questions about whether the policy has, in fact, decreased state spending on infrastructure. Similarly, despite TLIC’s intention to benefit both the state and the people, many question whether most of the benefits go towards the private sector. The lack of specificity, i.e. how TLIC should be implemented, governed, and held to account, stands out as the main problem plaguing the policy. Recent efforts, from the initiative since 2012 to develop a National Land Policy, to 2016’s Order 15 on timber-sector reforms, highlight both the longstanding efforts to address TLIC’s perceived shortcomings as well as the greater urgency of reform efforts under the newly selected government and Party leadership.

Over the last decade, the Land Information Working Group (LIWG)⁵ and its network of civil society organizations have been at the forefront of research and advocacy related to the problems stemming from TLIC-based development. In some ways, following its formation, LIWG grew and developed alongside TLIC in response to the social and environmental problems of TLIC-related projects, with one of its earliest publications being an initial summary and evaluation of land concession research⁶. In the years since, LIWG has published several reports and held numerous workshops on TLIC-related issues. This study is intended to take stock of TLIC at a moment when there is a process of reform underway, and when such reflections can help LIWG and its network organizations. It is our hope that the history, analysis, and recommendations brought together below will contribute to ongoing discussions, regulatory efforts and advocacy work by the LIWG and others.

The study is organized into four sections:

- ◆ The first provides a brief history of TLIC as a policy-in-practice.
- ◆ The second summarizes its impacts, results, and remaining knowledge gaps.
- ◆ The third analyzes current policy processes and debates concerning how to address problems related to TLIC.
- ◆ The report concludes with a series of recommendations on next steps for LIWG and others.

1.1 Methods

This report was researched, written, and edited between June 2017 and May 2018. It draws primarily on three sets of data: published material (contribution of the second author); data from the piloting of the Lao Land Concession Inventory (LCI) and Quality of Investment (QI) projects⁷ (contribution of the third author); and interviews, etc. conducted in August 2017 (contribution of the first author). Thirty-two interviews were conducted with staff from international and domestic non-profit organizations and bilateral donors (15), departments of central-level government ministries (10), and private companies (3). We aimed to have a more equally balanced sample but it was influenced by the ease of access to non-government organizations, more limited access to government agencies, and the difficulty of accessing private companies (in several cases requests were unanswered or refused).

2. The Meanings, Motivations, and Methods of TLIC: A Brief History

“Turning Land into Capital is largely about the commercialization of agricultural production.”

~ Foreign donor agency representative

“The meaning of Turning Land into Capital is for land to be used in a way that leads to the best result, while also preserving the land.”

~ Lao government official

“The aim [of TLIC] is to make more use of the land, create economic opportunities. Instead of just leaving land empty and dusty, it could be turned into agricultural land, industrial areas to create more benefits for people and the country. At least these are the intentions.”

~ Lao staff member at an INGO

“Turning Land into Capital is about land titling.... We don’t think of land concessions as Turning Land into Capital, although it is a part of the policy.”

~ Department of Land Administration official

These quotes illustrate the heterogeneity of understandings that surround the TLIC “policy”. As noted above, the lack of consensus is, in part, a function of the policy never being fully formalized as a written and legally authorized policy. According to interviews with government officials in the Department of Land Administration (DOLA), Ministry of Natural Resources and Environment (MONRE), the Lao Ministry of Finance (which formerly supervised the Department of Lands) drafted a decree in 2005 on “turning state property into capital”, but it was never finalized due to ongoing internal disagreements among the drafters. Over time, the confusion and debate became self-reinforcing: the TLIC policy could not be specifically formulated due to a lack of agreement over its intent, and the lack of a written policy, in turn, created confusion about the meaning of TLIC. Both government and non-government actors reported trying to make sense of TLIC via a variety of ad-hoc sources, including references in official speeches, newspaper reports, internal government discussions, and projects that explicitly referenced the policy.

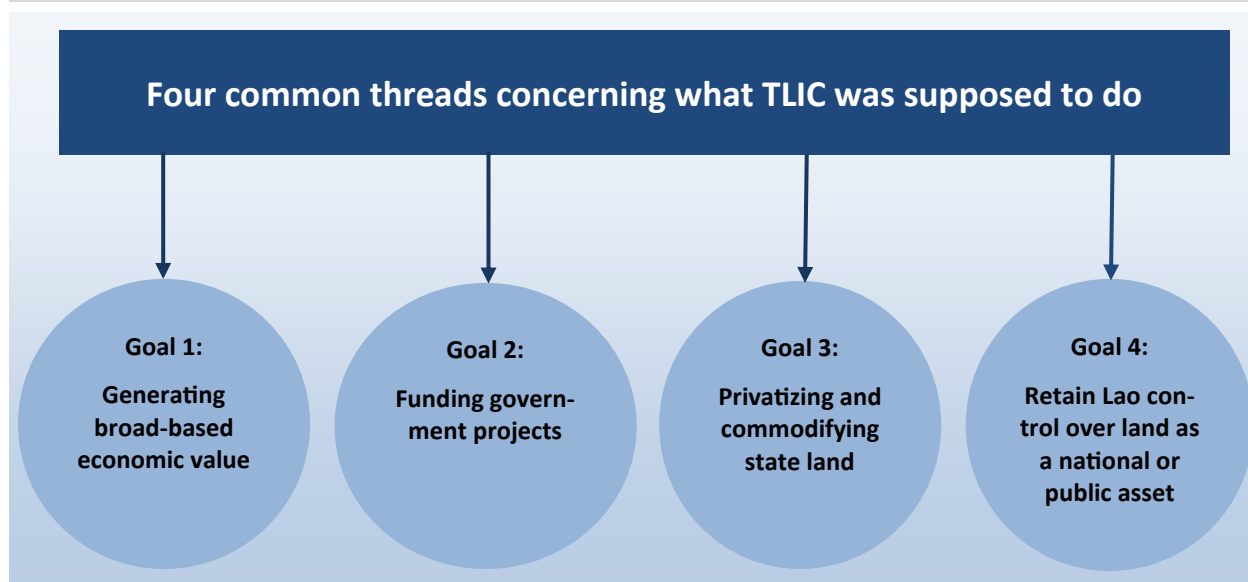
The Party Resolution on Land offers some additional clarity on the TLIC policy. In a point titled “Conversion of land into capital, development of a land market and financial policy regarding land” it delimits the ways that land can be used as capital and also outlines principles of public interest and market efficiency:

The state may convert land into capital by granting leases, concessions, trading land use rights, limited auction sale, or contribution as state equity in other enterprises or development projects in ensuring national security, peace and public order, interest of the state, collectives and peoples. Such conversion must be under state-centralized and uniform management, to prevent any loss to state land, and to ensure the creation of added value through transparent auction according to market principles. (Section III, point 6)

However, the clarity provided is limited because the resolution is fairly recent, and it gives little guidance about the purposes of converting land into capital, the specific models that will be used, how the capital generated will be used or distributed, or how to address tensions between public goods (“national security, peace and public order, interest of the state, collectives and peoples”) and “market principles”.

Thus, it is likely that current understandings of TLIC will continue to play a role in the policy’s trajectory. Among the different understandings we heard, there were four common threads concerning what TLIC was supposed to do.

Figure 1. Four common threads concern what TLIC was supposed to do



Generating broad-based economic value: Most of the Lao interviewees, in and outside of the government, framed the meaning of TLIC in this way. Their understanding is that Laos has a comparative advantage in underused and underproductive land, which can be made use of in a variety of ways by the government and Lao people to generate economic value and benefits for the country, its citizens, and its government. This is a broad and general understanding that is not connected to any specific conceptualization of what the land should be used for, what types of models should be employed, and how the benefits should be shared. Therefore, many people can support such a vision while also having different ideas of how it might be implemented and being disappointed in how TLIC has operated thus far.

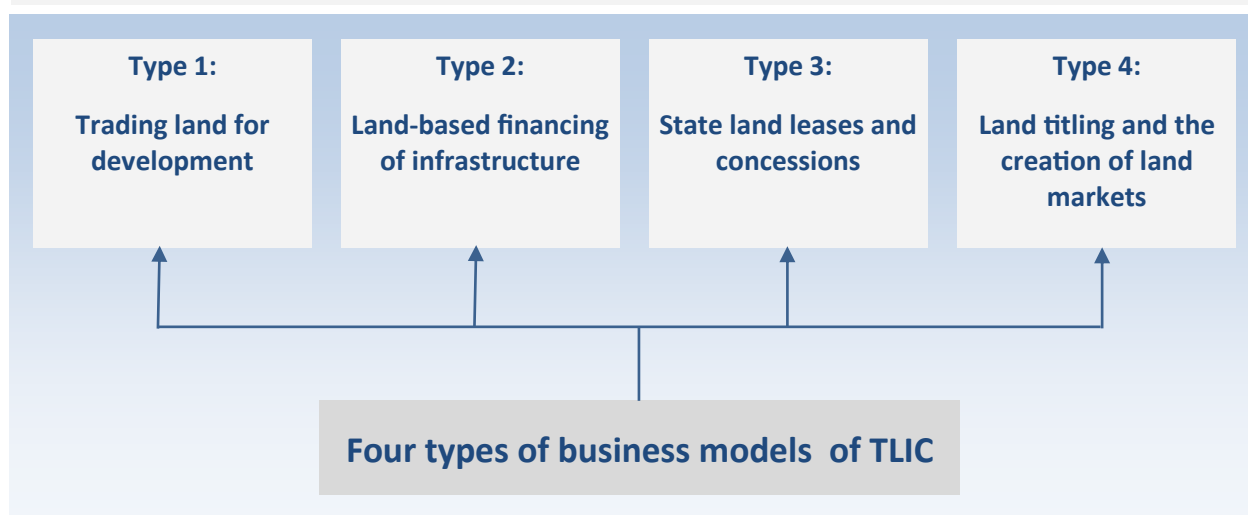
Funding government projects: This was not a common explanation concerning the meaning of TLIC, but often it captured how interviewees, especially from the government, described how TLIC operates in practice. In this framing, land can be used as a type of capital to replace financial capital in the government’s efforts to build infrastructure, especially road networks and government office buildings. Thus, the abundance of land controlled by the government, regardless of whether it is used by Lao citizens, makes up for the government’s lack of financial capital to fund infrastructure projects.

Privatizing and commodifying state land: This was the most common conception of TLIC held by non-Lao interviewees. TLIC was understood to simply be a policy intended to privatize and commodify state land by whatever models support this goal. Thus, interviewees understood that the policy was intended to generate economic growth, but that it was often abused by government officials for personal benefit. In this sense, the phrase turning land into capital refers to a process of liquidating land to create financial capital that can be used for other development purposes. It is perhaps this understanding of the policy that has generated the most concern amongst foreign observers as it gives the impression that the policy generates the least amount of benefits at the greatest expense for the country and its people.

Retain Lao control over land as a national or public asset: This is a common conception of the policy among government officials. It is contrary to the previous understanding of TLIC in that capital is to be maintained as assets that the government and people continue to control. In other words, it means transforming land into an asset that can continue to generate money over time because the state or Lao people do not lose control over the land and its income-generating properties.

Distinct from the above *goals*, many actors had different conceptions of what types of *business models* should be understood as examples of TLIC in practice. The following were identified by various actors:

Figure 2. Four types of business models as example of TLIC in practice



Trading land for development: In this model, the government transfers state land to a private company that then agrees to construct infrastructure (often new buildings) for the government. The most common way in which this occurs is that the government transfers state land (for example, locations where there are old government office buildings) in the downtown areas of Vientiane to private companies. In return, those companies build new, larger, and more modern office buildings on the outskirts of the city on other plots of state land as part of the agreement. In this model, the private company gains ownership over the land in the downtown area, which they use for some sort of construction project, or they may even sell the land to another investor. According to a high-level official at the Ministry of Planning and Investment, this model was initially suggested to the government by private companies who sought to acquire prime real estate in the downtown area of Vientiane at low prices. They promoted it using their government connections and it eventually gained impetus. The model is attractive to the government because it fulfills plans to move government buildings to the outskirts of the city, thus reducing traffic congestion and allowing the downtown area to flourish as a commercial center. Additionally, the government does not incur any direct costs for the construction of new office buildings. However, as several government interviewees pointed out, the government could have used this downtown real estate in a much more financially lucrative manner. If it were to sell the land on the private market, it is likely that the value would be much more than the cost of a new office building. Alternatively, the land could be leased to private companies and generate yearly income. Additionally, government interviewees were suspicious that the companies constructing new government buildings might take shortcuts and use cheap materials to save money on construction costs, thus leading to lower than optimal quality office buildings.

Land-based financing of infrastructure: This model is a variation on the previous one, but with the important addition of land expropriation in the name of infrastructure building. This model is best exemplified by the construction of the 450 Year Road, a ring road on the periphery of Vientiane, as described by Bounnhong et al.⁸ Instead of spending the government's limited infrastructure funding to pay for the development of the road, the government expropriated an additional 50 meters on each side of the road from landowners and compensated them at prices slightly higher than the market value of their land prior to the installation of the road. The government then sought to sell the land on the

private market at a minimum rate of \$120 per square meter, which would cover the costs of the road (built with a loan from the central bank) and generate additional revenue for the government. This model of TLIC is significant because the 450 Year Road was promoted and labeled by the government, in project documents and newspaper articles, as a TLIC project. Additionally, in discussions of the TLIC model with government officials, the 450 Year Road was invariably raised as an example of the problems that have been faced. The project relied on the expropriation of farmers' land, and so it has unsurprisingly met resistance, not only by the original landowners but also by wealthy investors who purchased land alongside the road in anticipation of the future increase in prices. The situation was made worse by the changing government policy on compensation and resale of the land. Furthermore, it is not yet clear whether the land can be sold at the prices the government seeks; much of the land alongside the road remains unsold and empty.

State land leases and concessions: This is the model that non-government interviewees associate most closely with the TLIC policy and helps explain why they often view the policy so unfavorably, given the negative social and environmental impacts of many large-scale concessions. Government interviewees often did not immediately identify state land leases and concessions (SLLCs) as a TLIC model but confirmed that they were TLIC when specifically asked. In SLLCs, the government leases land that ostensibly belongs to the government to domestic and foreign companies, for periods of up to 50 years (previously up to 99 years prior to the promulgation of the latest Investment Promotion Law in 2016). In return, the government receives a yearly fee based on the location, amount of land rented and the purpose of the project. Companies may also build infrastructure to support their project that meets the government's infrastructure needs, such as roads and electric lines built near plantations and mining investments. Finally, the project is intended to benefit local people through compensation with cash and village-level infrastructure (e.g. schools, village offices, roads) and providing them with stable employment. Thus, this model would ideally fit the first conception of TLIC as a means of generating broad-based economic value and benefits for the country, including both the government and the people. However, the record of SLLCs is much more mixed and often negative, as will be discussed in the next section.

Land titling and the creation of land markets: Only interviewees at the Department of Land Administration raised land titling and the creation of land markets as a TLIC model, which they believed was the only legitimate model of TLIC (see quote above). They view it as a form of TLIC because titling and the creation of land markets increases the economic value of land. This allows Lao people to generate more money from land, whether by selling or leasing the land (and of course speculating on land, although this is not the government's intended goal). It also allows the government to generate revenue from this process, particularly from the fees for creating and transferring land titles.

The next sections provide some of the history that underlies this diversity of understandings of the TLIC policy in practice.

2.1. Before the New Economic Mechanism (pre-1986)

Natural resource commodification has a long history in Laos, both in practice and as a goal. Forest products such as resins, medicinal plants, and wildlife were staples of pre-colonial trade, while under French colonization, Laos's natural resources were seen as a bounty with which to fuel development if it could be economically exploited. French investment in infrastructure development in its Indochina colonies was concentrated in Viet Nam, leaving Laos and Cambodia heavily exposed to the whims of

the private sector. Much of the infrastructure, development dependent on French financial capital (mines, roads, railways) that was planned in the first decades of the 20th century remained unbuilt as a result of the Great Depression of the 1930s. When Laos gained its independence, the French vision of “unblocking” the country’s resource wealth was left largely unfulfilled, although the approach to using concessions to finance development remained for decades to come.⁹

After the founding of the Lao PDR in 1975, natural resources once again became the engine of national development, although this time with much more dedicated financing from governments. Socialist aid to Laos focused initially on the forestry and transportation sectors, and it is likely that the model of trading forest extraction for new road infrastructure was established in this period. By the early 1980s, it was already clear that agrarian livelihoods were beginning to come into conflict with state-managed natural resource development on the forest-infrastructure frontier. Both forestry and subsistence agriculture tended to target forest areas relatively close to roads. This was especially apparent in the central Lao panhandle where the Lao-Swedish Forestry Project operated, but it is also likely to have occurred elsewhere and presaged the larger conflict between rural livelihoods and natural resource-based investments that would emerge in the 1990s and especially the 2000s.¹⁰

2.2 Trading Land for Development: 1986–2005

The practices that would later fall under the policy label of ‘Turning Land Into Capital’ emerged in the years after 1986 when Laos launched its “**New Economic Mechanism**” (NEM). The NEM sought to use markets, private incentives and foreign capital to make up for the shortcomings of the socialist economic model, as Soviet and Eastern Bloc aid declined precipitously in the mid-1980s. In doing so, it nonetheless kept key pieces of the planned economy in place, including its approach to property and its retention of “strategic” sectors of the economy. TLIC was, above all, a product of this articulation of new private capital within the existing system of state economic management.

TLIC’s basic economic logic was, and remains, the concession – the granting of exclusive access to a resource in exchange for developing it. The particulars vary: the access may be to timber, a river, or to land itself, while the “development” often ranges from pure extraction to the building of infrastructure such as roads or reservoirs upon which the resource development depends. In the 1990s, much of the resource-for-development trade focused on the timber sector, while other forms of land concessions for agriculture, tree plantations, mining and other commercial ventures became more common in the boom decade of the 2000s.

A description of exchanging timber for infrastructure was published in 2000, reflecting the prevalence of timber-for-infrastructure deals and outlining the logic that would later underlie concessions in other sectors. During the 1990s, Laos’s decentralization of forestry enterprises under the NEM meshed with ongoing cooperation with its socialist neighbors, as well as Thailand turning to Cambodia, Myanmar, and Laos for natural resources in the face of rising environmentalism at home:

Generally the Lao government has no money to pay for the construction [of various infrastructure projects], so payments are made in goods, mostly forest products, including logs and timber. ... Of more concern are additional “quotas” granted by provinces, particularly to finance infrastructure costs. This apparently works in the following way. A province or district identifies the need for, say, a new office building. Because there is generally no money to pay for such projects, the equivalent of the estimated cost of the construction is then allocated to the contractor as a logging quota in place of a cash payment. ... “Infrastructure logging” can even occur at the village level, for example, to fund the village contribution to electrification costs.¹¹

This example illustrates the logic of barter or using natural resources *as capital* to “purchase” roads, buildings or other development deliverables from third parties. The Phonesack Group, for example, got its start in forestry in the boom years of the late 1980s, and has continued to pride itself on “ensuring a smooth transition from one industry to another” and “paying careful attention to reclamation of logs felled during the development of other projects.”¹²

The passage quoted above also highlights the multiplicity of state authorities involved in land-for-development deals, ranging from the central level all the way down to the village. By the mid-1990s, this had emerged as a clear problem. A 1996 prime ministerial decree aimed at regularizing the zoning of rural land in Laos “strictly forbid administrative authorities at each level from further exchanging land for construction,” while a 1999 prime ministerial order also prohibited the granting of “infrastructure quotas” by provinces, although it retained the privilege at the central level.¹³

During the 2000s, the challenge of regulating the exchange of land for development extended to other types of concession projects, in part due to their sheer proliferation. The number of land concessions and leases was negligible in 2000 but crossed the threshold of 100 projects sometime in mid-2003. By late 2004 the number of projects had doubled to roughly 200, and by the end of 2005, it had almost doubled again.¹⁴ Many of these concessions were in the agriculture, tree plantations and mining sectors, highlighting the extent to which these sectors took off in the boom decade of the 2000s. By 2009, the number of concessions and leases would increase more than 50-fold to upward of 2,000 projects claiming more than 1,100,000 hectares of land, split fairly evenly between agriculture and plantations (45%) and mining (55%).¹⁵ Already by 2003, when Laos’s Land Law was rewritten, it was clear that an additional coordination mechanism was needed. The National Land Management Authority was thus written into the law, although it took an additional two years for it to be created, in 2005.

In the various regulations of the 1990s and 2000s, the effort to control investment without stifling it was clearly present, although the success in achieving this balance has been limited. The 1997 Forest Law had placed limits on the size of concessions that different levels of government were allowed to allocate; districts were limited to 3 ha and provinces to 100 ha. This reflected central-level authorities’ wishes to monopolize large-scale land allocation while also allowing local authorities to cultivate ties with the private sector. These efforts nonetheless were difficult to enforce¹⁶ and came into conflict with the existing system of quota-based forest management. In one case that occupied GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit) land policy researchers over the course of two studies, central and provincial-level authorities came into conflict over a concession for a coconut plantation. It had been allocated to a Vientiane-based construction firm, but it was also the location of a “production” forest area that provincial authorities had been hoping to use for their own development efforts.¹⁷ The size of the concession area – 5,000 ha – placed it squarely under the jurisdiction of the central level, but the case highlighted the tension between multiple actors involved in using state land for development.

2.3. Formalization and Regulation: 2006–Present

TLIC seems to have originated as a specific policy idea around the time of the 8th Party Congress in 2006. In August of that year, the Vientiane Times referred to it as a Party policy, as it also did in later articles in 2008 and 2010.¹⁸ TLIC appeared roughly twenty additional times between 2006 and 2011 in the Vientiane Times, where it was described simply as a “policy,” usually in connection with controversial land concessions. In most instances, TLIC was invoked as a justification for bartering land in exchange for development, often with low compensation rates. TLIC thus claims (usually implicitly, occasionally explicitly) that the land in question belongs to the state, and that compensation is a generosity rather than a requirement.¹⁹

Given what came before, it seems clear that the effort to formalize TLIC as a Party policy was intended to not only help facilitate the state’s use of land as capital but also to regulate the practice by placing it under stronger central oversight. While this effort has been partly successful at best, as the prime minister’s 2016 comments acknowledge, the history of TLIC-related activity since 2006 shows a clear increase in regulation-related activities (Figure 3). Moratoria on concessions figure centrally, as does the creation

and collection of detailed and geo-referenced data about existing land concessions. At the same time, however, the proliferation of land conflicts and the expansion of state debt related to infrastructure deals highlights the urgency in improving the reform measures that have already begun.

Just over a year after TLIC was first referenced in the Economic Report of the 8th Party Congress, Laos's prime minister issued the first of a series of moratoria on land concessions that have punctuated the last decade. The first came in early May 2007, and was triggered after the prime minister responded to a complaint from a Vietnamese rubber company about a story published by the Vientiane Times; as Ian Baird notes, the complaint backfired, and led to a central-level investigation that led the prime minister to declare a moratorium on land concessions barely two weeks later.²⁰ Pressure had been building for some time already. The German support program for Laos's Second Land Titling Project had returned a highly negative report on state land concessions the previous June, noting their "very low earnings" and blaming this on a mix of inconsistent policy, a lack of monitoring, institutional fragmentation, and the absence of a "comprehensive land inventory."²¹ Meanwhile, anecdotal reports about land concessions had been filtering into the capital for at least two years. The Vientiane Times published a pair of feature articles in late 2006 that exemplified the type of stories that officials (and members of the National Assembly, who had begun receiving petitions about land cases) had been hearing about. The articles, about an unnamed rubber concession in Luang Prabang, made a subtle critique of how TLIC was being put into practice. The case they described showed local people forced into liquidating their own capital assets, in this case, buffalo ("People used their buffalos as capital...") after local officials began to impose fines and confiscations after deciding it was "impossible" for the rubber company to build its own fencing.²²

Laos's first concession inventory followed the 2007 moratorium and was done largely as a response to negative yet anecdotal reports such as those mentioned above. Supported by GTZ and, after the titling project ended, by the University of Bern's Center for Development and Environment (CDE), the inventory provided the first statistical picture of leases and concessions in the agriculture, plantations and mining sectors.²³ Its key findings, summarized above (fifty-fold increase, 1.1 m ha), gave a statistical picture of the concession landscape, and even more importantly allowed for monitoring and analysis: concessions could be mapped and tabulated by commodity, size, location, start date, investor nationality and so on. They could also be compared with company documents (contracts, etc.), as well as with secondary data on land and forest cover, roads, poverty, and demographics. Yet the caveats were almost as telling as the data itself, including the length of time needed to collect the data, the fact that only half of the land concessions with stated *areas* also had *locations*, the difficulties geo-referencing land concession implementation, and the exclusion of hydropower, logging, and contract farming. These demonstrated the substandard state of land information systems at the provincial and district levels and pointed to the need to institutionalize data collection in addition to taking periodic snapshots. This helped set the stage for a second land concession inventory effort, discussed below.

Broader awareness of TLIC as a Party policy began to emerge around 2008. This happened largely via a trio of urban land concession projects that gathered momentum in 2008 and 2009: The That Luang Marsh development project, the new national stadium, and the 450 Year Road. These projects brought government-backed developers into conflict with peri-urban residents, including some who were also government officials, over issues of compensation. In their defense of the projects, government spokespeople invoked the TLIC policy, describing it in ways that echoed earlier timber-for-infrastructure schemes.²⁴ One Vientiane Times article on the 450 Year Road noted both the land-for-infrastructure trade and the public dissatisfaction that came along with having one's (private) land turned into (state) capital:

About 50m of land on either side of the road would be set aside for authorities to sell or award in the form of concessions to business operators. This would allow the government to recoup the money spent on building the road. ... This is the first project in Vientiane to follow the government's policy of *turning land into capital*, to reduce the financial burden on the government in road building. ... The scheme has some issues to address because local people are unhappy that authorities bought their land cheaply and plan to sell it for a higher price.²⁵

In defending this approach, officials had begun to make an argument that drew on language from the Lao Constitution; as Vientiane's Vice Mayor put it in mid-2008, "The land belongs to all Lao people and only the government has the right to manage it."²⁶ Yet even as they made this claim, city officials also spoke to the substance of the grievances: As part of addressing the That Luang marsh controversy, they announced plans for an affordable housing complex that would house public servants as well as "people who sacrificed their land for government investment projects;" in subsequent accounts, it became clear that these two groups were not mutually exclusive.²⁷ These projects thus showed that TLIC had begun to have negative impacts, not just for remote villagers with limited access to official accountability mechanisms, but increasingly the state's own grassroots members.

Two subsequent concession moratoria helped give rise to the current period of reform. The first was issued in 2009 and came only two weeks after the first moratorium was lifted. It sent mixed signals. On the one hand, it announced that the government was "still not ready" to resume land concessions. On the other hand, it also contained caveats that suggested it was more focused on centralizing control over the concession process than halting it altogether. As the Vientiane Times reported:

However, if an urgent case arises, with an investor needing more than 1,000 hectares of land to carry out a business, the sectors concerned will advise the cabinet in making a decision. For land of less than 1,000 hectares, the sectors concerned are advised to seek advice from the prime minister and deputy ministers.²⁸

A third concession moratorium, issued in June 2012, targeted mining, rubber and eucalyptus projects, which had come under scrutiny as government officials began to pay greater attention not only to economic growth numbers but also to social and economic impact.²⁹ Shortly after the issuing of the third moratorium, the Lao National Assembly announced plans for a comprehensive National Land Policy reflecting concerns about the same issues.³⁰ While these efforts have yet to produce a definitive policy, their trajectory – the Politburo took over responsibility after the Ministry of Natural Resources and Environment failed to produce an acceptable version – reflects the ongoing high-level concern about land governance,³¹ as well as the challenges of Laos's transition to becoming a "rule of law state" as required under the WTO (World Trade Organization).

TLIC sits uncomfortably on both sides of one of the major issues of government concern: public debt. On the one hand, it is easy to see the appeal of using barter-based approaches in a context where demand for development projects consistently outstrips available financial resources. This is in many ways TLIC's history, and since budget deficits remain the norm, and investment in land-intensive projects like roads and agriculture remain high development priorities, the current situation is quite similar to the past. (The Lao-China railway project, which leverages Laos's contribution to the multi-billion-dollar project through shares in undeveloped mineral deposits, is a case in point.³²) On the other hand, the shortage of central oversight in land-for-development concessions has made them a key source of "loopholes" that lead to lost revenue and possibly debt. The existence of multiple bank accounts by "some state organizations" that deal with timber highlights the potential for lost revenues.³³ Given the hundreds of millions of dollars (or more) at stake in timber rents alone, and infrastructure costs stretching into the billions of dollars,³⁴ Vientiane's push to centralize control over concessions, and state land management more generally, is hardly surprising.

Additional capacity to manage land concession investments may come from a second land concession inventory, begun in 2014 and slated for completion in late 2017. In addition to enhancing the spatial precision of information, the second inventory includes polygon data about both planned and actually developed concession areas; the second inventory is focusing increasingly on questions of administrative compliance. Preliminary results from two provinces, elaborated below, suggest that many active concession projects are missing much of the paperwork needed to develop a detailed project plan. Instead, they are operating largely on the basis of preliminary agreements such as MOUs and initial approvals.³⁵ Analysts of this data have yet to relate this administrative compliance with substantive impacts on the ground (such as social or economic impact), but the lack of detailed project planning documents seems to be the rule. This is a serious concern and highlights how far TLIC has to go if it to become a formalized, and hence regulable, process.

Figure 3. Timeline of TLIC policy and the wider context

Before 1986

- Pre-colonial times:** Resource exports via trade and tribute pathways, especially forest products (including animals)
- Colonial capitalism:** Opium monopoly as a major source of colonial capital for Indochina as a whole, heavy French reliance on private finance capital to develop (or not) Cambodia and especially Laos; lots of speculation but very little actual development; infrastructure an ongoing problem
- 1960s–1980s:** Accumulation of war debt to socialist allies, esp. Viet Nam and the Soviet Union
- 1975–1985:** Resource conflict between forest management and shifting cultivation; SC stabilization emerges as a policy goal, but uneven in implementation because of the need to prioritize certain areas for economic development
- 1975–1985:** Socialist development assistance involves resource bartering; Lao-Swedish Forestry Project runs in this period as well

1986–2005 (regulatory responses in bold)

- New Economic Mechanism (NEM) begins:** 1986 – forestry is highly successful in the new market economy, but this also prompts **the Tropical Forestry Action Plan (TFAP), the creation of Laos's system of national protected areas, and subsequent policy efforts to rein in the logging in the early 1990s.**
- The 1990s:** – Promotion of export hydropower began, based on the Nam Ngum 1 model. See Wyatt 2004 for a key event in 1993 (est.) in Bangkok.
- 1996:** **PM decree 3 bans the exchange of land for development**
- The mid-late 1990s:** First Lao Land Titling Project begins
- Late 1990s/2000:** Financial crisis, Chinese bailout and first Chinese state visit to Laos in October 2000. This positioned China and Vietnam to be key competitors for the Lao resource landscape.
- Early-mid 2000s:** The first big wave of rural land concessions, with China and Viet Nam especially prominent for the reasons mentioned above. Lots of approvals but limited transparency, either publicly or even internally. The latter especially begins to cause problems. See GTZ 2006. Land titling stays away from concession areas – effective bifurcation of property rights formalization (as in Cambodia; Dwyer 2015)
- Regulatory response 1:** **Institutional. NLMA formed in 2005 and tasked with addressing land concessions as a social, economic, environmental and even a political issue.**

2006–present (regulatory responses in bold)

2006, March:	8 th Party Conference, TLIC soon after announced as an effort to develop land markets
2006, July:	Creation of Land Development Services state enterprise to support TLIC for infrastructure
Regulatory response 2:	Informational. The Buffalo-rubber conflict story in Luangprabang (Nambak) emerges in Vientiane Times (August & September 2006) as the first official public conversation on the subject.
Regulatory response 3:	Policy.
2007:	First moratorium. 1st concession inventory starts.
2009:	Land concessions impact urban areas and affect the Lao middle class (That Luang Marsh, SEA Games stadium, 450-Year Road); Decree 135 (May) issued, 2nd moratorium ended (June) and re- instated (July)
2010:	Intervention of Robert Glofcheski, Chief Resident Economist of UNDP: <i>quality</i> as a critique of growth at all costs
Sometime after 2008:	mineral prices go down, highlighting sensitivity to the global commodities market. Rubber prices also decrease soon afterward. Economic dimensions of TLIC are becoming increasingly apparent, not only social and environmental impacts.
2010-2012:	first concession inventory results begin to be published
2012 June:	PM order 13, 3rd moratorium (more targeted this time: rubber, eucalyptus, mining)
2012 August:	National Land Policy Process starts.
2013 (est.) to present:	Fiscal crisis due to low commodity prices, low land tax collection, revenue “leakage” and growing debt-for-infrastructure projects. The latter takes form in infrastructure projects where the true cost is unclear, as well as so-called “ghost” projects. These helped pave the way for current reforms.
2014:	concession inventory round 2 and CDE research on QI start.
2016:	PM decree 15 issued in May, widely indicative as symbolic of reforms, given popular concerns about illegal logging
2016:	PM calls for a review of TLIC in June meeting with ministers and provincial governors

3. Assessing TLIC as a Policy in Practice

As noted above, a range of projects and practices can fit under the umbrella of TLIC. Here we focus primarily on the two main variants of land trades (types 1 and 2 above) and state land concessions (type 3).³⁶ We focus first on the size and scope of these projects, and then on their performance. This leads to a discussion of current reforms in section 4.

3.1 What is the size and scope of the TLIC policy in practice?

Considering that TLIC spans multiple sectors and is unevenly documented, it is difficult to get a good statistical picture of the TLIC policy in practice. One dimension of TLIC, the exchanging of land (and often timber rights) for infrastructure, has been described qualitatively in multiple sources but is largely unquantified. In contrast, a second dimension of TLIC is the claiming and use of “state” land for the granting of various types of land concessions. This has been captured in some detail through the two land concession inventory projects mentioned above, as well as through a study on aspects of investment quality that accompanied the second inventory. Investment quality, in this context, refers to compliance with international standards and Lao law and regulation, as well as economic, social and environmental impacts.

3.1.1. Trading “land” for infrastructure

As noted above in the case of the 450 Year Road, the practice of exchanging land for infrastructure has been frequently invoked as an instance of TLIC, which allows “the financial burden on the government” to be reduced. This practice has proven common in the building of rural roads and other forms of infrastructure projects, such as provincial government buildings, and has been identified repeatedly, and increasingly publicly, as TLIC in recent years. A 2014 review of the implementation of the government’s Forestry Strategy for 2020 noted that timber quotas had been “mainly allocated for debt payment by provinces or other barter arrangements,”³⁷ reflecting the continuation of logging despite a ban on “normal” timber extraction from production forests. Additional evidence of these practices appeared in the Vientiane Times in 2015, first as described by the Lao Minister of Finance, and then as recounted by the head of the Lao Furniture Association:

The Minister of Finance Dr Lien Thikeyo clarified the situation to National Assembly members at the ongoing session recently, saying that as the revenue from timber was not centralised, it created loopholes for local authorities to spend the revenue for other purposes. He explained that some local authorities spent the revenue sourced from the sale of timber to pay their debts owed to entrepreneurs who invested their capital for state infrastructure projects in those provinces.³⁸

In the last few years, the government approved the provision of 30 percent of its annual wood quota to the [Lao Furniture] association but this has not been collected, the association’s President, Mr Khamphay Somsana told [the] Vientiane Times yesterday. He said that despite the government approval, when the association has asked each target province for their share of the quota, the provincial authorities could not supply the required wood as those production forests were kept for the companies which spent their funds up front for development projects.³⁹

These accounts describe TLIC, but also highlight the fact that this variation of the practice has yet to be publicly quantified: no measures are given, for instance, of how large the various quotas or debts are, or of how much timber was exchanged for how much infrastructure. One article cited above noted that the gap between timber exports and timber revenues was approximately one order of magnitude (hundreds of millions of dollars vs. \$20 million),⁴⁰ but the implication that some or all of the difference has gone into TLIC-type “land for infrastructure” swaps has yet to be quantified.⁴¹

3.1.2. State land leases and concessions

In contrast to land-for-infrastructure arrangements, state land leases and concessions (SLLCs) have become increasingly well mapped and statistically described over the last decade, in large part thanks to the pair of inventory efforts, the first using census-type data collected from between 2007 and 2011, and the second based on data collected between 2014 and 2017. The first inventory revealed the massive growth in land concessions during the boom decade of the 2000s and identified the key statistics summarized above. It also enabled production of a variety of thematic comparisons including the distribution of concessions among provinces and districts, different commodities and sectors, foreign vs. domestic companies (Figure 4), and in the geographical contexts of land and forest cover, forest categories, poverty incidence. Among its widely cited findings were the extensive overlaps between land concessions, village lands, and various protected forest categories, all of which highlight the importance of spatial data in facilitating land governance:

Governance structures and institutions have struggled to keep pace with the expansion in land investments witnessed in the Lao PDR over the last decade. Five per cent of the total land area of the Lao DPR has already been granted to investors for development – nearly ten per cent if concessions for mining exploration are included. Despite the exclusion of mining exploration projects, logging concessions, hydropower projects and contract farming agreements, the analysis includes a substantial 2,642 land deals, covering 1.1 m ha and involving approximately 1,900 villages' land.⁴²

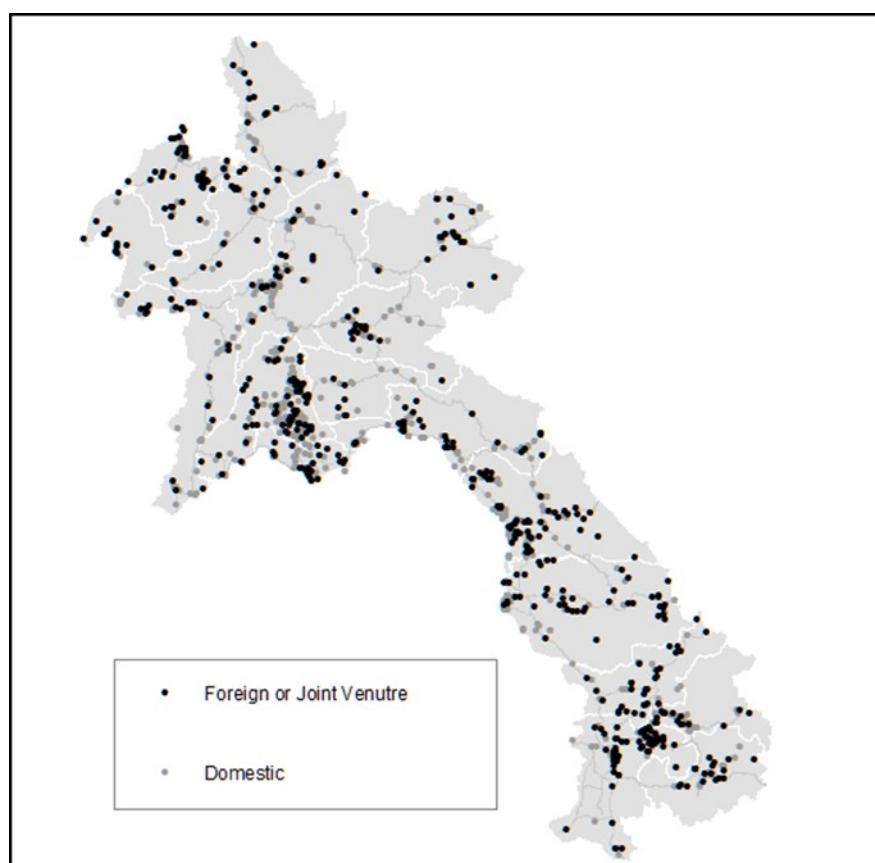


Figure 4. State land leases and concessions according to first concession inventory, conducted 2007–2011

Source: Based on Schoenweger et al. (2012)

The second concession inventory, conducted between 2014 and 2017, has sought to add to the statistical picture created by the first, by bringing the earlier inventory up to date, creating more precise spatial data, and getting local authorities increasingly involved in the inventory process.⁴³ Figure 3 below gives an example of the data collected in the second inventory, focusing on two provinces where pilot data was collected in 2014 and 2015: Luang Prabang (138 projects) and Xieng Khuang (90 projects).

As shown in Figure 3, the projects developed by domestic investors greatly outnumber the foreign and joint-venture projects. In Luang Prabang, 112 projects, for which the area of land granted was quantified, were identified in the inventory. Most (89%) of these projects are domestic, while a much smaller fraction (11%) are foreign or joint venture investments. However, foreign and joint-venture projects dominate the total area granted, with more than 20,000 ha or (80%). In Xieng Khuang, the share of the area developed by foreign or joint-venture projects is even higher, at 97% of the total area (nearly 131,290 ha). In contrast, domestic projects tend to be small and numerous, highlighting the extent to which local companies have been able to take advantage of the concession mechanism to develop small-scale mining (especially sand and gravel) and agriculture (especially livestock) projects.

If these provinces are found to be representative of national trends (on completion of the inventory), the proliferation of smaller concessions to domestic actors could become one of the major findings to emerge from the concession update process. A large number of small projects adds to the challenge of timely information collection on concession and lease projects. This is particularly relevant in the mining sector, which is linked to the booming building industry in urban areas, where a large number of domestic sand and gravel projects have emerged throughout the landscape. These projects are of very small size (usually smaller than 5 ha) and usually operational for a short duration (often just a few years before being abandoned), but can have significant impacts on local water systems and associated lands. Keeping track of these smaller projects, and maximizing their benefits while minimizing their negative environmental impacts, is a great challenge.

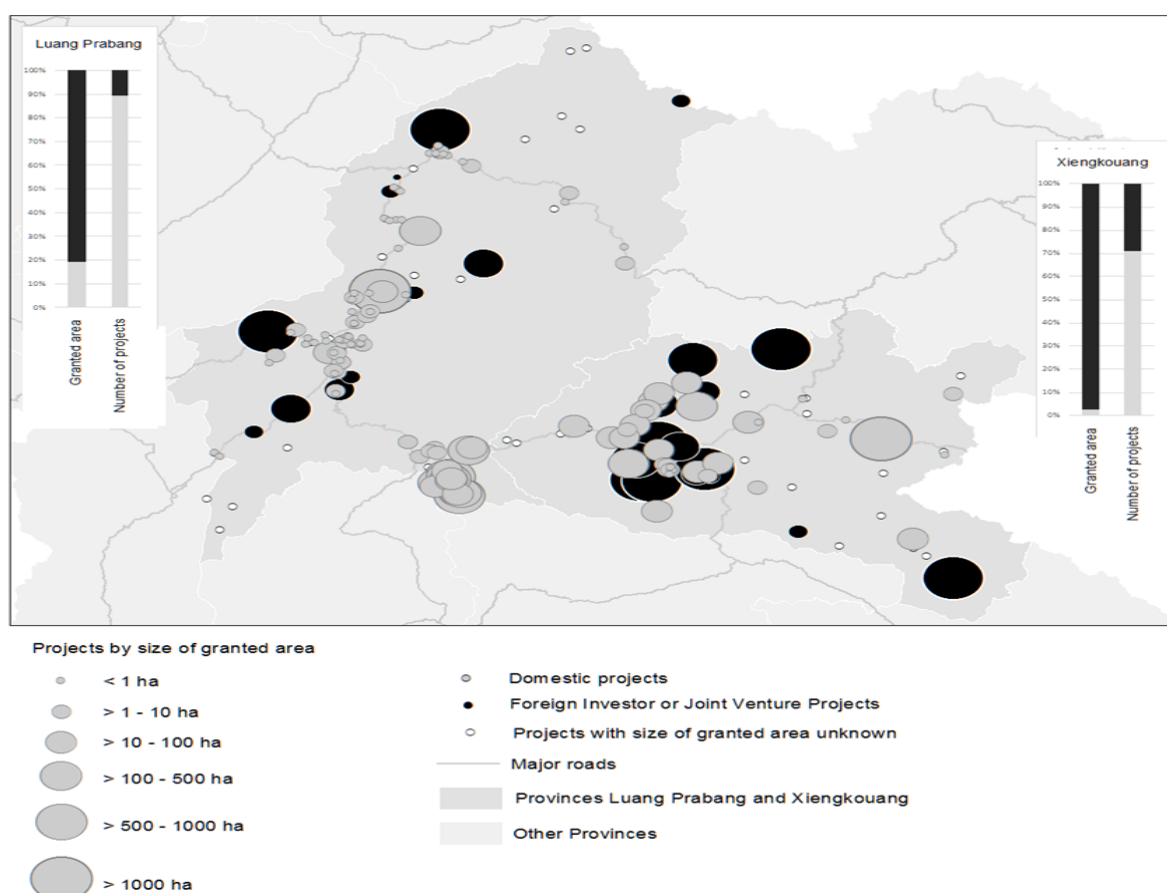


Figure 5. Locations of concession projects in Luang Prabang and Xieng Khuang provinces, shown by the size of area granted.

Source: adapted from Hell et al. (2015)

3.2 How is TLIC actually performing?

“The Turning Land into Capital policy is good in principle, but it has many problems in its implementation. There is no transparency, accountability, or good governance in how it is implemented. It is all done in a top-down system.”

– Manager of a Lao consultancy firm

This line of indirect criticism was common among interviewees, especially Lao staff of government and non-government institutions. As noted above, however, the “principles” of TLIC have yet to be written, and thus criticism concerns the performance of TLIC in its implementation. As noted in section 3.1, TLIC’s two main pillars have been unevenly studied when it comes to scope and scale; the shortage of systematic data on land trades (including timber trades for infrastructure) continues here, where our focus is by necessity on SLLCs.

The data from Luang Prabang province of the second inventory offers a closer look at the question of regulatory compliance. The project analyzed the extent to which documents were on file for projects in various phases of development (Table 1). Out of 16 key documents for projects of the agricultural sector, 11 were available and hence included in the analysis.

Table 1. Key documents and phases of SLLC project development

Project granting phase	Key documents	Available for analysis	Responsible agency
(1) Project application/Initial project set-up phase	Investment application	No	Investor
	MoU for field study	No	MPI/DPI and Investor
(2) Project Development Phase	Field study report	Yes	DoLA/PoNRE and MAF/PAFO
	IEE/ESIA report	Yes	Investor (commissioned to a third party)
	Economic and technical feasibility study (ETFS) report	Yes	Investor
	IEE/ESIA approval certificate	No	MoNRE
	ETFS approval certificate	No	MAF
	Notification/Agreement letter	Yes	PMO
	Project Development Agreement (PDA) document	Yes	MPI/DPI and investor
(3) Project Agreement and Certification Phase	Concession Agreement document	Yes	MoNRE/PoNRE and Investor
	Concession License	Yes	MPI/DPI
	Business License	Yes	MoIC
	Agri-Business License	Yes	MAF
	Tax license	Yes	MoF
	State land title	No	DoLA/PoNRE
	Certificate on utilization of state land	No	DoLA/PoNRE

In general, the availability of these key documents was low across a range of sectors and products. For all 19 livestock concessions, the pattern was similar: projects were all set up between 2013 and 2014; all had a concession agreement, and 16 had a notification letter. However, none of the other documents were present. The additional three projects in the agricultural sector each had a total of two key documents available: one had business and tax licenses, another had a concession agreement and a tax license, and a third had a field study report and a concession license.

The availability of key documents was higher for the six tree-plantation projects examined, regardless

of the area granted. All (five) foreign investments had at least four out of the 11 key documents; meanwhile, the domestic investment had none. While the combination of documents varied greatly, as is shown in Figure 6 below, none of the projects had an IEE/ESIA report or a Project Development Agreement. These are both comprehensive project documents of around 30-50 pages which provide details about how the project should operate; in the absence of such documents, projects are essentially “on good faith”, meaning with the assumption that all legal requirements are met, rather than accountability.

In the mining sector, the availability of key documents was also extremely limited. Out of a total of 54 small sand and gravel projects, none had a tax license, only one had a business license, and five had a concession license. Eighteen projects had an excavation license. In contrast to the six plantation projects, 19 projects had an IEE/ESIA report of some kind.

These results reflect the statement made by the manager of the Lao consultancy firm above. Projects are largely implemented without going through the formal documentation processes. One reason for this might be that the representatives of GoL agencies are often poorly informed about the process of granting projects, as well as the required documents that relate to it. This is included in the lessons learned from a series of interdepartmental workshops that were organized for the preparation of the collection of the key data for the second concession inventory. It took several workshops and consultations with the individual participating government agencies at central level to piece together and have consensus on the details steps of the concession granting process. These workshops, at the central and provincial level, often provided the opportunity for a first exchange about the granting process amongst the representatives from the different line departments, triggering vivid and fundamental discussions about their respective responsibilities. During provincial workshops, in which representatives from province and district levels participated, it was often apparent that some government line department participants were poorly informed about the current concession granting process or changes to the process. Furthermore, it was observed that the representatives of different line departments had not exchanged information on certain projects and would benefit from stronger information linkages. The traceability of where a project has progressed to within the overall granting process is low and often government agencies rely on the statements of the investors themselves with regard to fulfilling certain criteria and conditions.

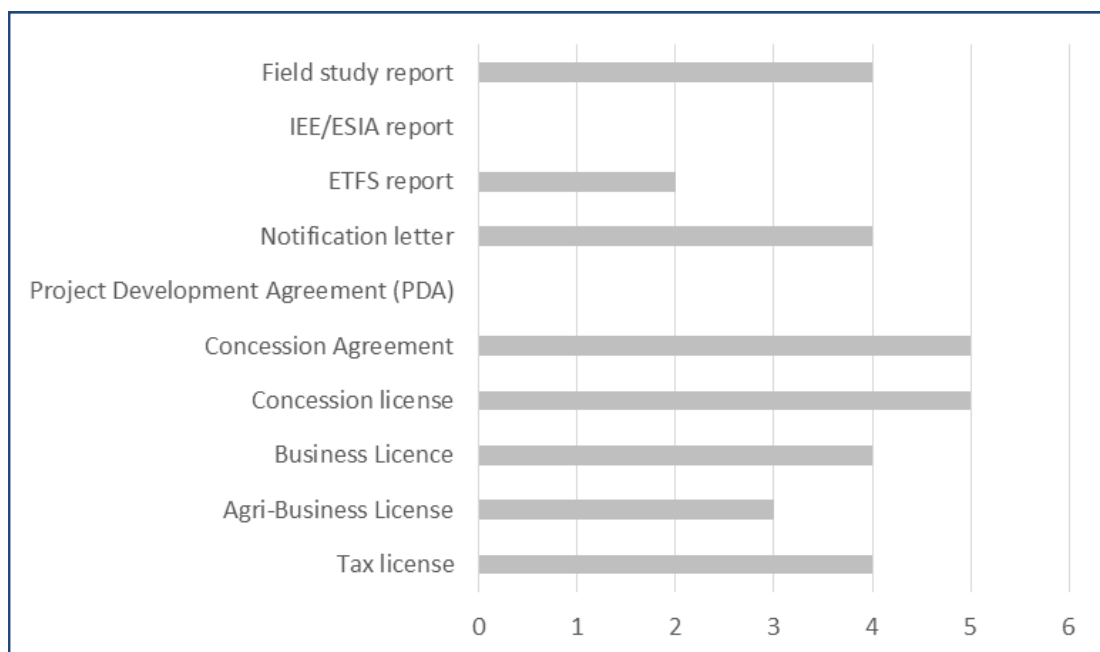


Figure 6. Frequency of availability of different key project documents for tree-plantation projects (n=6)

The TLIC policy raised high expectations regarding the economic development and improving or building new infrastructure in more remote areas of Laos. The data from the second concession inventory from Luang Prabang and Xieng Khouang Provinces supports observations from the first, nation-wide assessment: Projects do not go to remote areas but are predominantly developed along the main roads (see Figure 3) as well as in the vicinity of existing infrastructure, e.g. district capitals.

In order to further clarify the aspect of contribution to (rural) development, the following was considered with regard to the quality of investment assessment: (1) what type of infrastructure was promised by investors and (2) which infrastructure was delivered in conjunction with the development of a new project. The data from Luang Prabang province here includes a total of 21 deals in the agricultural sector (including tree-plantation projects), which are either in their start-up phase or in their operational phase and have a granted area of more than 10 ha. The data consists of 17 livestock projects, one agricultural crop project, as well as three rubber projects. The data reveals that the land investment projects included either providing new or improving already existing infrastructure in a limited number of cases (see table 2 below). Most frequently (three times only) the construction of new roads or the improvement of existing roads were included in project documentation, while other types of infrastructure were rarely mentioned. One tree-plantation project's documentation included planned contributions to all infrastructure items listed in table 2 below. However only contributions to road construction were stated to have been received by the local authorities. The majority of projects, 18 projects including all 17 livestock projects, neither proposed nor delivered contributions to infrastructure. In fact, for all of these projects no negotiations were carried out between local GoL representatives, investors and/or the affected communities on the subject of infrastructure contribution. It appears that while a lot of hope was put into the TLIC policy for contributing to infrastructure development, largely by the GoL at the central level, these contributions were not negotiated at the local level by local GoL departments or the affected village communities. This result is in line with the lessons learned from province workshops for the preparation of data collection. Often the representatives from the districts were not aware that they could, and should, raise such demands. They often stated that they thought that they would not have the right to impose conditions such as infrastructure provision for new concession projects, but would have to accept the conditions and offers made by the investors.

The results from the QI assessment in Luang Prabang province further indicates that the investors do not think they are required to deliver contributions to the improvement of existing infrastructure. The representatives of two tree-plantation projects named "inadequate infrastructure" as an operation constraint for their projects but they did not make contributions to their improvement.

Table 2: Number of projects promising infrastructure development

Promise to provide new or improve existing infrastructure	Number of projects
Roads	3
Schools	1
Electricity	1
Suksala/healthcare center	1
Water supply	1
Village office/meeting hall	2

Research on TLIC-related land management shows the prevalence of ad-hoc management strategies carried out at the local level. In the 2006 GTZ study referenced above, the lack of a comprehensive inventory of state lands meant that despite various on-paper jurisdictional responsibilities at the central level, “investors often turn[ed] to provincial authorities to search for appropriate land,” and “very often the investors have to go to the district and village level to identify and negotiate land deal investments.”⁴⁴ Following the implementation of two concession inventories, the situation is improving slightly, but concerns remain that regulators continue to struggle to keep pace with the rate of expansion in land investments, as suggested by Schoenweger et al. (2012).

4. TLIC Reform: From Policy to Resolution and Law

The prominence of the TLIC policy within the newly released Party Resolution on Land, which acts as a guiding political document for the revision of the Land Law and other regulations relevant to land, shows that the policy is clearly here to stay, despite its problems and the Prime Minister’s call to review it. Not everyone views it as a good policy and that the government should continue to pursue it. One non-Lao interviewee expressed that “Turning Land into Capital is reactionary, not visionary – what should be done with land to make money? It’s done out of necessity”. However, considering the government’s commitment to TLIC, many believe efforts are best focused on reforming its meaning and practice through discussion, debate, and legal advocacy on the Land Law under revision, as well as the sub-laws and other relevant policies that will be subsequently issued. Furthermore, because the ideas behind TLIC are popular among Lao people, in and outside of the government, it can act as an important frame of engagement. TLIC could potentially operate as both a broader conception of development *and* a set of concrete policies and regulations.

The Lao government seeks to revise the TLIC policy because of the improper ways in which it has been implemented and the problems that it has created. The government is concerned with a) the inability for the policy to generate enough revenue, b) the inability for the government to control its implementation, and c) the conflicts and negative socio-environmental impacts it has produced.

Most interviewees agreed that the central problem with the TLIC policy related to its poor implementation, which resulted from a lack of specific and detailed rules and regulations governing how the policy should be implemented. It can be further suggested that the idea is quite general and vague, which may explain why it appeals to many people despite their critiques of its use in practice. The lack of a substantive policy idea behind TLIC explains why it is often understood by non-Lao observers in relation to the way it is practiced: exchange of land for infrastructure or land leases and concessions. Developing specific regulations is clearly a concern of the government as well. Although there are no efforts underway to develop a detailed and specific TLIC policy beyond the broad definition offered in the Party Resolution on Land, there has been much political and policy activity in recent years to address the central problems of TLIC indirectly via policies, regulations, and laws. To be clear though, these policy initiatives were not pursued for the sole purpose of addressing the problems of TLIC, but to deal with a host of other land-related issues that plague the country’s economic transition.

This section details the recent and ongoing policy efforts to address the problems with the TLIC, focusing on the now-defunct NLP, the recently issued Party Resolution, and the ongoing drafting of a revised Land Law. It provides an account of how these documents have changed over time, focusing on the substantive policy changes that have been put forward as well as how these issues were engaged with politically.

There is also focus on the interface between non-government organizations and the Lao government in the development of land policies, particularly the ways in which bilateral development donors, multilateral development agencies, and INGOs (hereafter, referred to collectively as development partners) have influenced and shaped the processes and outcomes of the government's policies.

4.1 From National Land Policy to Party Resolution

On August 3rd, 2017, the Central Committee of the Lao People's Revolutionary Party, the most powerful political institution in the country and only legally recognized political party, released their Resolution (*mati*) on Land Management. The Politburo had abruptly decided the previous year that the NLP, which had been officially in development since 2012, would be abandoned and transformed into a Politburo Resolution (later changed to a Central Committee Party Resolution) on land. Many of those in the non-government community who had been working with the government on the NLP were disappointed and worried that progressive clauses that had been added into certain versions of the policy, like respect of customary land rights, registration of communal land, and the clear separation between public and private purpose forms of expropriation, would be removed. Perhaps, in part due to their low expectations, they were pleasantly surprised with the ultimate version of the Resolution, as it explicitly recognized land problems within the country and proposed changes that touched on recommendations made earlier for the NLP, such as recognition of customary and community land. Although this was not detailed enough to assess how exactly such issues would be dealt with (at only 6 pages), it seemed to provide a reasonable political platform for advocacy regarding the Land Law under revision, which the Resolution was meant to guide.

The precise motivation for the creation of the NLP is not well known, but interview data suggests that it was based on the government's recognition that the country was experiencing unprecedented land-related conflicts and problems, many of which related to the failures of the TLIC policy (as discussed in the previous section). This presented a need to comprehensively update the policy framework to better manage land issues. The process of drafting the NLP began in 2012 and was coupled with the initial steps of drafting a revised land law. However, the government aimed to pass the NLP first so that it could provide policy guidance for the Land Law, as well as other laws under revision that contain clauses related to land. Since both the NLP and Land Law were being revised simultaneously, development partners were able to provide suggestions and recommendations relevant to both.

The NLP was unique compared to other legislative processes as it was regularly open to inputs from the public and from development partners. Non-government partners (mostly INGOs, multilateral development agencies, and bilateral donors) provided general comments on key issues that they considered to need to be further addressed in the policy and also when drafts were received, specific line-by-line recommendations for changes in the wording were suggested. These were passed on to the government at workshops with government ministries and at the National Assembly (NA), meetings of the land sub-sector working group (LSSWG) (where government ministries and development partners get together to discuss common issues related to land), by email, and in private meetings with government officials. All of the development partners interviewed felt that these strategies were successful in getting their messages to the right people, in effecting change for certain issues as revisions of the draft policy were developed.

One non-Lao interviewee, who was closely involved in advocacy efforts throughout the lifespan of the NLP, explained how the influence of development partners came in waves: at times the doors were open to them and they were able to see significant progress on signature issues, at other times they were shut and such progress had been quickly reversed.

S/he described a process of developing the NLP that became almost cyclical as the NLP went through a similar process of change twice before it became a Party Resolution. At the beginning of the cycle, the NLP was in an original draft form from MONRE. MONRE sought input from development partners. Through exchanges and discussion between sympathetic MONRE officials and development partners, over time the quality of the document improved as progressive clauses appropriate to the Lao context were added. Prior to reaching the NA for debate and a vote, the document first passed high-level inter-ministerial committees and then the Politburo, at which point the progressive elements of the document were removed. The NA then received a lower quality draft, which they discussed and rejected. The document was then returned to MONRE for redrafting and followed almost the same process again. This second draft was also rejected by the NA. As expressed by the interviewee, although they would have liked to see the passage of a progressive NLP, “this was a big achievement, the rejection of a bad policy”.

The back and forth between the drafting committee at MONRE, the Politburo, the high-level inter-ministerial committees, and the NA revolved around a few key issues of contention. These directly related to the TLIC as it had been understood, and practiced, in many cases. The Land Committee of the NA provided a detailed list of reasons that explained why they had rejected the policy. These included the lack of clarification between expropriation that was for public expropriation compared to that for private expropriation. Yet, this was one of the progressive aspects that had been specifically included by the drafting committee with development partner inputs, and then subsequently removed by high-level officials and party members. Thus, advocacy efforts were in part successful because they resonated with the concerns of MONRE and NA officials, who arguably deal more closely with the problems of expropriation – the technical work of MONRE and in engagement with constituents for the NA. This experience also reveals the limits of advocacy in Laos. Non-government interviewees expressed that although they have some access and influence with the departmental level of ministries, and to a slight degree with the ministerial level, one of the key challenges is that they have no influence over how these issues are addressed by the upper echelons of the Lao government that have the most power over the final product. This includes the inter-ministerial committees, the Prime Minister’s office, and the Politburo and Central Committee of the Party. In some cases, progressive or controversial issues included at the departmental level had been taken out as they progressed up the chain of command. In other cases, they are never included because departmental level officials know that it is politically risky to keep them in the draft legislation.

The Party’s decision to abandon the NLP in favor of a Party Resolution was interpreted by most interviewees as a politically neutral move to restart what had become a frustratingly stalled process of land policy reform, particularly as the Land Law revisions would be dependent on the guidance of the NLP. The change occurred shortly after new leaders of the government and Party, who have since developed a reputation of dealing with the key socio-economic issues within the country, such as illegal logging and corruption, in a strict and centralized approach, were elected. Thus, it is not surprising that they wanted to take the reins in deciding how land should be managed. Government officials interviewed, especially those on the Land Law drafting committee, were pleased that the Party Resolution had been issued as it meant they could continue with their work of revising the Land Law. They were relieved that some of the most politically contentious issues had been raised in the Resolution and it was therefore not contentious to address them further in the Land Law. Most interviewees expressed that, because the Party is the most powerful political institution in the country, it makes sense for them to author a policy document that deals with one of the most politically sensitive topics. Meanwhile, other institutions like the NA might face overbearing political pressure to avoid certain stances.

While there is undoubtedly truth to this narrative, one interviewee expressed that there is more to the story. After the Politburo and other high-level officials failed on two occasions to get the NA to pass an NLP without progressive clauses, such as a clear distinction between public and private purpose expropriation, it was clear that they would be unable to work through one of the few democratically elected institutions of the government and end up with a policy that pleased them. Thus, they had to suspend this comparatively democratic process for a more authoritarian one in which the Party made decisions behind closed doors concerning how the country's land should be managed, shielded from the influence of development partners as well as the government's own technocrats and legislators. However, as one government interviewee aptly stated, to understand such an opaque change in policy, "you would have to ask the Party why it was done".

The Party Resolution had included variations of DP recommendations on the NLP, the same elements that the Party and others had removed in earlier rounds of NLP deliberations. This was both perplexing to, and welcomed, by many. As one non-government interviewee expressed, "I don't know why the Party Resolution turned out in a positive way, it's a major unknown because we're dealing with a non-transparent government". S/he continued that "The policy advocacy caught on in the Resolution. There are many astonishing things in it. They probably came from the NLP, and also individuals mentioning them. Government officials in the provinces, everywhere, are confronted by such land issues. Lots of people are affected".

Considering such reactions, and that the Resolution is viewed by many, including those involved in drafting the revised Land Law, as a politically powerful guiding document, it is worth reviewing some of its key points, especially those that correspond with earlier recommendations from development partners. The Resolution begins with a degree of balance by recognizing the importance of land to Laos and the government's aims to manage it effectively, but also importantly recognizes the many problems with land management that the country is facing. These include "land expropriation to serve development projects is not only a heavy burden but also a sensitive issue, affecting public order" and particularly relevant for this paper, that "conversion of land into capital still has no comprehensive legal framework, due to which the Government and people have not received as many benefits as they should have". These are quite subdued ways of framing the land conflicts plaguing development in Laos and misses out many important problems, but it is notable that they're identified at all in such an influential political document.

The Resolution also immediately sets out the country's legal framework of land ownership and management, particularly that land belongs to the national community, rather than the state: "Lao territory is the most important foundation symbolizing the nation; land is the 'ownership of the national community' which is the expression of independence and sovereignty of our nation". In section II, point 2, the role of the state in relation to people's land is further clarified: **"As representing the national community in its land ownership, the state manages land in a centralized and consistent manner across the country, involving the allocation, planning of land use and development, granting of land use rights to individuals, entities, families, collectives and organizations for long-term and sustainable use in compliance with the Constitution and laws."** This is clarified even further in section III, point 1, in which it is written that: **"In recognizing that land is the ownership of the national community, the state must continue to recognize and protect land use rights held by individuals, legal entities, collectives, and the customary rights of the people, which include: right to use, usufruct, and right to transfer and inherit according to the laws"**. Such a framing perhaps provides one of the clearest pictures of land ownership and management in Laos, while also strengthening people's rights in comparison to the Constitution and Land Law. Land is owned by everyone in the national community (i.e. all citizens), centrally managed by the state, and granted with the right to long-term use akin to ownership to individuals and groups in society. Even more remarkable is that customary land use rights

are recognized, although how exactly this will be accomplished is not specified in the document. While there are still opportunities for abusing such a framework, depending upon how it is further developed in the Land Law under revision and interpreted in practice, especially the centralized management of land by the state, it does recognize that Lao citizens have formal and customary rights to land.

Another important point of the Resolution, somewhat aligned with the recommendations from DPs on the NLP, is that land use rights should only be revoked for public interest projects. It is written in section III, point 5, that **“The state may retake land use rights from individuals, entities, collectives, and organizations for the purpose of state activities, public interest including development of infrastructure, national defense, and socio-economic development, by allocating to such persons a new land or compensating them with a reasonable price”**. Thus, land use rights cannot be revoked for private, profit-oriented investments. One concern for some of the development partners interviewed is that the inclusion of **“socio-economic development”** as a type of public interest could be used to approve expropriation for private investments that would be presented as generating socio-economic benefits. Many projects, ranging from plantations to hydropower, could be approved based on that condition. There lacks any mechanism for determining whether a project that requires expropriation is a project with a public or private purpose. Additionally, expropriation is framed as only cases when formally allocated land use rights are impacted, which may not include customary rights that have not yet been formally registered. Point 5 discusses concessions and leases of state land, which will continue to be permitted, and could be granted on lands for which people do not have formal rights for long-term use.

Communal land is addressed in the Resolution, although this is in a way that many interviewees felt was dissatisfying. The words “communal land” or “collective land” are not used. Instead, the land use rights of “collectives” is recognized, but further specification of how collectives are defined is provided. Interviews with government and non-government stakeholders, however, shed more light on how this term is used. The Party decided to move away from the use of the word “communal land” (*din xoum xon* in Lao) and instead use **“collective land”** (*din luam mu*). Several explanations were provided. One was that *din xoum xon* was a Thai term and was not relevant to the Lao context, nor were Lao people familiar with the term and what it meant. Meanwhile, they were more familiar with the term *din luam mu*. Another interviewee claimed that communal land would cover the whole village and include all of the villagers. Collective land was more versatile, in that it could be used to protect the land of a marginalized ethnic minority group in a village or a shared area among villagers from adjacent villages. A final explanation made by several government officials is that recognition of communal land would place ownership of a village’s land with the village chief. The government feared that corrupt village chiefs would sell off communal land to external investors to make money. A non-Lao, non-government interviewee felt it was the political essence of the government’s decision not to use the term communal land was because it created a significant threat to the government’s control of rural territory, as much of the country’s land is divided into village areas that could then be claimed as communal land. This sentiment seemed to be confirmed by several non-government and government interviewees who expressed that the committee drafting the land law planned for collective land to be a sub-category of state land, rather than its own independent category, thus diminishing the autonomy of those with collective land rights.

An important result of the Party Resolution on Land is that it provides an important piece of policy guidance that allows the revision of the Land Law to proceed, which is a relief to government and non-government stakeholders. Many would have wished to see a progressive and detailed NLP passed by the NA. This would be a more democratic process that reflects the inputs of civil society and elected NA members who represent the interests of their constituents more closely than most other government officials. Nonetheless, it is a policy document that contains the key issues that DPs proposed for inclusion in the NLP, even if not with the detail, precision, and exact stance that they would have preferred. That these progressive issues were included in the Resolution in some form or another shows that the Party is sensitive to its legitimacy and thus sought to produce policy guidance that reflects the

concern of many Lao people and civil society. It is yet to be seen how these ideas will be translated into law, but this review can provide some sense of what is being pursued based upon interviews with key government and non-government stakeholders involved in the process (see below).

4.2. Prospects of a New Land law

Revisions of the 2003 Land Law (which is a revision of the 1997 Land Law) have been ongoing since 2012 in parallel with the development of the NLP. Thus, non-government organizations who have provided recommendations on the NLP have also made similar recommendations on various draft revisions of the Land Law. Some of these recommendations had been included in previous versions of the Land Law. However, after the NLP was abandoned and a Resolution was drafted and issued instead, a new drafting process was started by the lead agency, the Department of Land Administration (DOLA) within MONRE. This has not yet been completed, and the newly drafted articles have yet to be seen. Approximately 180 articles are planned. This is a significant increase from the 87 in the current Land Law. Half of these had been drafted as of late August 2017). Thus, it is not yet known to what extent the recommendations on earlier versions of the Land Law will be included in the current version. An interviewee at DOLA emphasized during an interview that any recommendations adopted by the NLP will not necessarily be included in the Land Law draft because the NLP was abandoned. He recommended to **“Forget about the NLP, it’s cut out already. It’s the Land Law that needs to address the key issues”**. Their primary source of guidance is the Party Resolution, thus any recommendations that are in the Party Resolution will ultimately have some impact upon the Land Law.

According to government interviewees, it is likely that the revised Land Law will address the issue of TLIC using the framing of the Party Resolution as described above. Later sub-laws (decrees, instructions) will more precisely describe how it should be implemented. The Land Law will also address important issues that are relevant to TLIC, regardless of how the policy is precisely defined. One of these is how land concessions will be regulated. There was a consensus among interviewees inside and outside of the government that the time of large-scale land concessions of long duration is over, largely because the land required for them is no longer available. This is consistent with recent trends in the granting and implementation of land concessions and can be considered largely a result of the 2012 moratorium on concessions for mining and eucalyptus and rubber plantations (and the influence of earlier moratoriums). The number of concessions has been reduced, with few projects being implemented after 2014, especially for commodities targeted by the moratorium (according to interviews with staff involved in the update of the state land leases and concessions inventory). There is a desire within the government to reduce the area and duration of concessions, which has been partly achieved in the new investment law (reducing the maximum concession to 50 years). A government official involved in the Land Law drafting committee estimated, but would not confirm, that they would limit the maximum area of land concessions to 5,000 ha.

In addition to reducing maximum land area and duration of concessions, government officials expressed that clauses would be revised or added to the Land Law that requires better regulation of concessions in two important ways. The first is that companies applying for concession contracts would be required to clearly survey and map out the land before, rather than after, their project is approved. This would potentially help to prevent the clearance of lands that the government seeks to protect from conversion, such as forested lands and farmers’ productive agricultural land. Secondly, the government wants to create stricter regulations to ensure that companies use all of the lands that they are granted within a limited amount of time, otherwise, they would lose the project.

The issue of compensation is another major concern under discussion by the Land Law drafting committee, although it may not eventually have a prominent place in the law. Officials expressed that the recently issued PM Decree 84 on Compensation already addressed compensation issues, and therefore they did not need to be significantly covered in the Land Law. Nonetheless, there remained a strong desire among government officials interviewed to reform compensation processes related to

private and public investments. This was also recently expressed by the Prime Minister at the current NA session.⁴⁵ While development partners have made recommendations that compensation for private purpose projects is provided at market rates, government officials were not receptive to this idea. They see it as problematic because it is difficult to assess an accurate market rate in many areas as the prices that landowners ask for their land are highly inflated. Instead, they want to develop an approach that's based on the principles of improving the livelihoods of those who have been impacted, or at least ensuring that they stay at the same level after being affected by a development project. Such a goal could potentially be achieved by a combination of approaches: providing affected persons with new lands and resources; providing them with and training them for new livelihood opportunities; providing cash compensation. As one official expressed, such an approach takes into account the varied ways in which a project actually impacts someone's livelihood. Using the example of the Lao-China Railway, the official hypothesized about a case in which two farmers lost the same amount of land. One was a large landowner and the land was marginal to her/his livelihood while the other owned very little other land and thus the impact was quite devastating. It would be inequitable if the same amount of compensation were provided to both farmers as it might be a marginal amount of extra cash for the large landowner, but insufficient to substitute for the small land owner's loss of livelihood. Instead, it may be better to give the large landowner less compensation and provide more to the smaller landowner or put more funding into securing new land and a new livelihood for the latter. While such a livelihoods-based approach to compensation could be quite progressive, the challenge would be how to evaluate the status of livelihoods before and after development projects and how the government or project developers would be held accountable to maintain or improve pre-project status.

Little else is known about how the contents of the draft Land Law will be formulated as the drafting committee has not been open to external input and involvement during the time of this review. Previously, the committee had been more open to involvement by DPs and had even requested the hiring of an international consultant. However, due to changing power politics within the committee they changed their position and limited their contact with the hired consultant once s/he arrived. As several non-government interviewees expressed, throughout the multiple years of advocacy work on the NLP and Land Law, the doors have opened and closed in cycles, showing how the government strategically approaches when and how it wants to receive external input. As a non-government interviewee framed the current situation, "The doors are closed because the issues are so complicated. There are too many views and they want to reduce the number of voices to get it done". It will be necessary to wait until the doors open again to see what has been written and potentially to provide input on it.

5. Recommendations

To conclude this report, we offer some recommendations for reforming the TLIC policy as well as for engaging in policy, advocacy, and practice. Not all of the recommendations offered here are concrete points of action, some are points of reflection to guide future debate and discussion on TLIC. These recommendations are based on common points of agreement among interviewees regarding policy, engagement reforms and changes needed. These points are integrated with the reflections and analysis of the authors. The first section, **"Reforming the TLIC policy"** is primarily aimed towards government actors, while the second section, **"Policy engagement, advocacy, and practice"**, is aimed more towards non-government organizations. However, each section is written in a way to be relevant for both types of actors and should be read by all.

5.1 Reforming the TLIC policy

Reflect on the value of TLIC and its alternatives: While the TLIC policy is here to stay for the foreseeable future, it is worth reflecting on its value for the country and whether other alternatives might be pursued, in consideration of the problems it has generated. These issues should be debated and discussed openly, and this may generate opportunities for moving in new policy directions in the future. The main thrust of the TLIC policy is to use the country's comparative advantage, land, to generate financial capital, which it lacks. However, research on TLIC projects has shown that available, empty, or unproductive land in Laos is not widely available for investment, especially without displacing current land users. Thus, land that can be used to support TLIC projects is increasingly rare and becoming highly valuable.

This requires reconsideration of the policy along two lines. The first is to consider how land should be valued within TLIC projects. The research suggests that often the government is not maximizing the benefits from the approach used to capitalize on state land. For example, in projects where there is an exchange of state land for infrastructure, it is likely that the government could generate more revenue from openly bidding the sale of the land, or leasing it out, rather than exchanging it for government offices. This is important considering that the amount of government land in downtown Vientiane and other cities will become more limited over time. The second is to consider who should have control over the economic value generated from land. Currently, most TLIC projects are initiated and controlled by the government, while the social and environmental impacts are borne by communities when their land is expropriated. If greater emphasis were placed on local people generating economic value from their land, then the distribution of benefits and impacts might be more favorable for Lao people, who productively use the country's land.

Ultimately, such reflection may lead to the conclusion that the TLIC policy, as a strategy of economic development, does more harm than good. While Lao interviewees painted a broad picture of TLIC that most could support – the use of the country's land for economic benefit – the interpretations of this idea vary widely in practice, in ways that lead to abuse and corruption, and through models that do more for the government and investors than for Lao citizens. Clarifying the meaning of the policy, its various iterations and models, and how it should be implemented would go a long way toward improving the policy. However, taking into consideration the divergent understandings and meanings, as well as the inability to improve clarity in the definition for over a decade, it may not be worthwhile. Instead, **it might be better to leave TLIC behind and focus on reforming regulations concerning the models of development to which it relates: exchange or sale of state land, state land leases and concessions, land-based financing, and land titling.**

Clarify the meaning of the policy: While the value of the TLIC policy is questionable and should be debated in coming years, its inclusion in the Party Resolution and planned inclusion in the revised Land Law shows that it will be an important part of the Lao government's policy landscape for some time. Thus, it is necessary to work with the policy to reform it in ways that will improve its implementation. One of the first steps for doing this is to clarify the meaning of the policy and to do so in a way that broadens it as a beneficial policy for all Lao people, without favoring the state and private investors.

Clarify implementation of the policy: The precise meaning and operation of TLIC should be clarified in its own legal document, for example, a Prime Ministerial decree. This also requires there to be specification regarding the forms of TLIC, including a justification for their use and an explanation of the conditions under which they are to be applied and who has the authority to implement them. This must be consistent with other laws and regulations, such as the Land Law under revision.

5.2 Policy engagement, advocacy, & practice

Broad-based advocacy: The process by which the NLP was abandoned in favor of a Party Resolution, which is acting as a guide for the revision of the Land Law (examined above), demonstrates the unexpected ways in which policy develops in reality. While government officials expressed that the Party Resolution is a completely different document to the NLP, rather than a new expression of it (because the NLP was no longer pursued), some of the similarities with the NLP and development partner recommendations show that this is not the case. Instead, the recommendations made by the DPs seemed to have a life of their own, working their way into the Resolution, albeit not in their original forms. Furthermore, these ideas appear to be having some influence on the Land Law revision process. Thus, this experience demonstrates that policy advocacy should not be viewed as a singular activity, aimed only at the concrete change in one particular policy or law. Instead, it should be viewed as a form of political engagement aimed at shaping the broad policy ideas of the Lao government and Lao society. It can be disappointing when pointed recommendations are not taken up, or non-government actors are excluded from internal government processes. The only solution is to commit to a sustained form of engagement in which development partners advocate their approaches while also engaging in debate, discussion, and exchange of ideas with the government.

Involvement in transparency efforts: A common refrain of interviewees was that the primary problem with the TLIC policy is its poor implementation, an important element of which included its lack of transparency (see discussion above). When TLIC-type projects are pursued, there is a lack of information available for the public concerning how the project will be developed, what will be the costs and benefits for affected persons, the Lao government, and society at large. Sometimes there is even a lack of information about the exact location of the project. The Lao government, itself, is interested in pursuing greater transparency in development projects, as framed in the new Investment Promotion Law and exemplified in partnerships between MPI's Department of Investment Promotion and civil society organizations like LIWG and VFI. Furthermore, the working partnership between multiple sectors of the government (MPI (Ministry of Planning and Investment), MONRE, and MAF (Ministry of Agriculture and Forestry)) and the Lao DECIDE Info project that are conducting a second concession inventory, is a positive sign of the move towards transparency. The Lao government also seeks to improve its internal processes of auditing and inspection to stamp out corruption. The Vientiane Times reported that **"Various sectors of society are being encouraged to get involved in the inspection process, including the Lao Front for National Construction, mass media organizations, civil society organizations, the media, and members of the public."**⁴⁶ It is important that INGOs, civil society organizations, and other development partners continue to seize these openings. **The best way to do so is to give these openings substance by getting involved in the process of making TLIC-type investments more transparent.**

Develop policy stance towards re-investment: The TLIC has been implemented for over 10 years, and so the question of re-investment and managing existing projects throughout their life cycle will become more pressing. This is a key dimension of TLIC's success or failure. Lag times are longer in some sectors (energy, mining) than others (agriculture, tree plantations). However, in all sectors, there are many projects in the middle of or reaching the end of their lifecycle, and the way in which they are managed shapes their impact on local communities, the environment, and the nation at large. Glofcheski's definition of quality investment is a guide: **such investments provide more benefit than harm/gives more than it takes.**

Regulation: Government needs to invest significantly in regulation rather than avoid costs by letting companies themselves develop ad hoc solutions with local authorities. It is necessary to strengthen and empower the institutions whose job it is to coordinate functions across the economy, from promotion to regulation of investment. These include national-level institutions like MPI, but also local-level institutions like communities that have strong regulatory imperatives and interests but often remain informal.

Continue efforts to enhance tenure security: Smallholders need policy and regulatory support. There is a strong case for village land tenure, both from a social welfare and a business-case perspective. Currently, TLIC is effectively a subsidy to big business; in theory, tenure enhancement could be linked to business permissions in order to rebalance the playing field, but this would take substantial re-regulation.

Annex 1. TLIC in the Vientiane Times (through June 2011)

Variants on the phrase *turning or transforming land into capital (TLIC)* appear in the *Vientiane Times* roughly two dozen times between its first appearance in March 2006 and June 2011 (which is an arbitrary cutoff; it appeared subsequently as well). The phrase is often associated with land concessions, both in the abstract and in connection with three specific urban projects, the first two of which were, for a time, interlinked: the development of the That Luang Marsh, the building of a new national stadium and the 450 Year Road.

In the absence of formal policy documents, legal decrees or case law, controversial projects like these provide a useful window into the TLIC policy by: **(1) Clarifying its intended meaning, and (2) highlighting some of the debates and issues that surround the process of policy interpretation and implementation.** Urban projects are especially important in this regard, given the difficulties faced by more distant land users in accessing the legal system.⁴⁷

2006

March 2006: TLIC appears first in the sixth installment (March 20-27) of the economic report from the 8th Party Congress. The report on the sixth 5-year socio-economic development plan was presented by the Deputy prime minister and head of the Committee of Planning and Investment. It began by linking current decisions to the “renovation” policy of market-based development: “Amidst an atmosphere of the entire Party, army and people of Laos following the events of Congress VIII of the Lao People’s Revolutionary Party with keen interest, the Political Report presented to this Congress by Comrade President of the Party reconfirms the need to further implement the Party’s Renovation Policy” (Economic report, VT 20 Mar. 2006). TLIC appears some way down the document, in the context of land titling:

To improve systems of market economic development. To help us move toward becoming a progressive and modern society in line with socialism. The Party’s leadership and the Government’s administration and encouragement, will work to perform some conditions as follows: a. To improve the legal framework. To serve market economic systems. b. To pay attention to important market development as follows: (1) Expansion of the commodities market and services in order to ensure that Laos becomes competitive in the market mechanism. (2) Real estate: To make use of land as a commodity, legal trade to implement the policy of transforming land into capital. (3) To increase the labor market...

July 2006: The Land Development Services State Enterprise is created as part of efforts “**to support implementation of Party policy on transforming land into capital**” (VT, 22 Aug. 2006, Sharing land for sustainable development; see previous section, footnote 40).

November 2006: The activities and function of the Land Development Services State Enterprise are elaborated. The enterprise is envisioned as a “**coordinator between private businesses and government authorities**” and a facilitator “**to develop land in areas influenced by the government’s relocation of people, and those who are affected by the construction of new industrial zones, new cities, highways, railways, bridges, airports, hydropower dams, mines, tourism facilities and other developments**” (VT 15 Nov. 2006, New tool for land development; see full story in the previous section, footnote 40).

2007

September 2007: The TLIC policy emerges in force by being articulated to a foreign commercial entity in the context of a key development project: “For Laos to be considered a gracious host, a top-quality sports stadium is needed for the opening and closing ceremonies and the staging of the various sports events. This is a large project requiring a lot of financial backing.

To achieve it, the Lao government proposed a **‘Transforming Land into Capital Policy’** to the Director General of the National Development Bank of China during his visit to Laos in the middle of 2006. The director general praised the government’s policy and said his bank would be happy to provide a loan for a Chinese company to build the stadium so that the Lao government did not have to borrow money from the Chinese bank. In return the Lao government has provided a 1,000-hectare site for the Chinese company to develop, in which the percentage of the Lao investment share will later be agreed upon” (VT 10 Sept. 2007, Government sets new land policy in motion).

2008

February 2008: The TLIC policy is invoked to explain an increasingly unpopular project: “Mr. Somsavat said the reason the government had granted permission for a foreign company to develop the area was part of the Party and government’s policy to turn its land into capital” (VT 12 Feb. 2008, Government explains That Luang marsh development)

July 2008: “The National Land Management Authority’s Lands Department Director General Mr. Siphandone Sihavong said it was hard for the government to direct investors to areas suitable for their industry. Lack of land certification also means investors can be granted land which is already being used for farming. To address the issue, the Lao government is formulating a nationwide master plan to allocate land for specific uses, including agricultural projects, industrial tree plantations, productive forests and preservation areas. ... **‘Granting land concessions to investors is a vital part of implementing the government’s policy of turning land into capital,’** he said” (VT 1 July 2008, Government to create land allocation plan).

September 2008: A decree that will allegedly settle the dispute about how much concession recipients should be charged also confirms that concessions are for state land: **“The decree, which will come into effect in December this year, is part of government policy to convert state land into capital for development purposes”** (VT 11 Sept., Value of land concessions in dispute; also mentioned in the same way two days earlier on 9 Sept., Government seeks consensus on land concessions).

November 2008: TLIC invoked with a new building given to the government by an investor: “Board Head, Dr. Phandouangchith Vongsa, said the government’s policy was to convert land into capital and the agreement was in line with that policy (VT 7 Nov. 2008, Kolao helps fund Party magazine headquarters).

2009

February 2009: TLIC appears in the middle of the 450 Year Road compensation controversy, in which the central government compulsorily purchased land in a 50-meter strip along a new peri-urban ring road below market value, and announced that it planned to lease it back to investors at market cost: “This is the first project in Vientiane to follow the government’s policy of turning land into capital, to reduce the financial burden on the government in road building.” The VT noted that “The scheme has some issues to address because local people are unhappy that authorities bought their land cheaply and plan to sell it for a higher price” (VT, 2 Feb. 2009, 450 Year Road forges ahead).

May 2009: The head of the National Land Management Authority “said he does not support the way villagers’ land is negotiated away when concessions are granted to foreign investors. ... He said the government’s policy to convert land into capital was not at fault, but the manner in which it was being implemented was regrettable.” **“The government’s policy to transform land into capital is carried out in three ways. The first way is to use existing land by preserving natural resources for tourism and generating capital from tourists who visit areas of natural beauty. The second way is to extract minerals, fell trees or use other natural resources for development. The third way is to allocate areas for development projects such as road construction, crop production and tree plantations”** (VT 14 May 2009, Minister: Protect villagers’ land in concession negotiation).

June 2009: The 450 Year Road scheme continues with villagers who lost their land now being given the chance to buy it back (at a higher price): “The government has given priority to former land owners to buy the developed land first. If they do not want to buy the land, the government will put it up for sale to the public, using the money to finance the cost of road construction and infrastructure development in the area. ... The 450 Year Road construction project is a government pilot project aiming to convert land into capital. Under the policy, the government will have to take land back from the current occupiers to build roads and other infrastructure. The government will sell the developed land to the public to refund the cost of road and infrastructure construction as well as to compensate land owners who have had to give up their land for development” (VT 25 June 2009, Former land owners get priority in the purchase of 450 Year Road plots).

June 2009: “The government’s policy to ‘turn land into capital’ continues apace, especially regarding road building in the provinces.” This account describes a build-operate-transfer scheme, then explains the compensation process and refers to the 450 Year Road as an example.

The concept of turning land into capital is a form of public-private partnership. Under agreements with government authorities, a private investor will develop the necessary infrastructure. In return they will receive financial benefit from special rights or access over a defined time period. At the end of this period, the infrastructure in question reverts to public ownership. In the case of road development, investors build roads and then are often given the rights to recoup their investment over time by selling land plots on either side of the newly developed road. One such example is the six-lane 450 Year Road in Vientiane ... (VT 29 June 2009, Government to pursue land development policy).

July 2009: A repeat of the Nam Bank buffalo controversy in Luang Prabang in 2006 took place (see VT 14 Aug. and 11 Sept. 2006), but this time in Phongsaly, where buffalo owners had been going into debt after being fined because their animals “trespassed” into rubber fields. This article uses the case to remind readers of the most recent suspension of land concessions, which are linked to the TLIC policy:

The government decided to suspend land concessions last week after hearing comments from National Assembly members that concessions were being granted without proper studies being conducted. The government will resume the granting of concessions after it completes a land survey in accordance with its efforts to protect the rights of both local people and investors. The government first suspended land concessions in 2007 and resumed the practice in May this year, before suspending the system again last week. The government began granting land concessions to foreign investors a few years ago as part of its policy to turn land into capital and develop the country while reducing poverty (VT 7 July 2009, Phongsaly farmers in debt to rubber tree growers).

August 2009: The TLIC policy is used to explain Vietnamese success in development:

Turning land into capital has been a very helpful policy in supporting provincial socioeconomic development. Before 1995 the province [of Binh Thuan] had only four hotels. Investors, primarily from Russia, stayed there for oil exploration. However, when a total solar eclipse was scheduled to appear over the province in October 1995, astronomers from around the world turned up to see the special phenomena (VT 27 Aug. 2009, Binh Thuan, Vietnam: a charming place for visitors).

2010

March 2010: The mayor of Vientiane announces that former owners of land along the 450 Year Road will no longer be allowed to repurchase their land, but they will be given higher compensation in order to move the project along faster. He “said the construction of the 450 Year Road was one of several pilot projects in line with the policy of the Lao People’s Revolutionary Party to turn land into capital. The policy had been made to realize the country’s real estate potential” (VT 1 Mar. 2010, Vientiane ups compensation for landowners displaced by 450 Year Road).

March 2010: The article announcing that people displaced from the stadium project would be given new land at Kilometer 21 (but not land titles) – see above – continues with an explanation of the TLIC policy and its effects:

“Vientiane authorities are seeking to develop areas outside the city centre to reduce congestion. Chinese and Vietnamese companies have expressed interest in investing in the development of the new community at Km 21, as well as establishing a new industrial and commercial centre nearby. The government is in the process of turning land into capital as a means to speed up development. However, this policy has led to numerous families being forced to relocate to make way for development projects. While the government provides new land for those who have to move, the rising cost of land in the city is driving out low wage earners and many are forced to live on the outskirts (VT 9 Mar. 2010, Vientiane authorities promise better life at Km 21).”

June 2010: The 450 Year Road provides a negative lesson learned, but the TLIC policy survives intact:

“Speaking at the National Assembly on Friday, Prime Minister Bouasone Bouphavanh said “The Vientiane Administration has proposed the construction of a new road from Nongtha to Nongbuathong via Nongbeuk. They suggested using the same investment format as for the 450 Year Road, but the government would like Vientiane to learn from the lessons of that earlier experience.” ... Despite previous difficulties with the new investment format, the prime minister said the government would continue to pursue its policy of converting land into capital to lower state investment costs (VT 23 June 2010, Government defers decision on road project using new investment format).”

October-November 2010: TLIC policy is linked again to 450 Year Road (VT 14 Oct. 2010, 450 Year Road to be complete early next month; 12 Nov. 2010, 450 Year Road opens for public use).

November 2010: TLIC connected to the ongoing rural land concession controversy: A representative of the National Assembly’s Economic, Planning and Finance Committee said “the government needs to ensure that all provinces follow the land laws strictly, as some provinces have contravened them in recent years. For instance, provincial authorities are allowed to approve the development of 100 hectares of land under the government’s policy of converting land into capital, but some provinces have granted approval for larger areas. Land has been one of the most contentious issues in Laos for many years, with hundreds of people submitting their concerns on the issue through the NA hotline at every assembly session. The issue of unfair land compensation is a major part of the debate, in spite of substantial legislation on the subject” (VT 17 Nov. 2010, Assembly urges government to accelerate land master plan).

November 2010: The That Luang Marsh controversy takes another step toward resolution:

“A Laos-China joint venture has begun development of a 1,000hectare site in Xaysettha district, Vientiane, after pulling out of a proposed development in the area of That Luang marsh. ... The company held a groundbreaking ceremony last week for the mega investment project at Nano village, 21 km outside the city centre. The ceremony was a definitive indication that That Luang marsh will not be developed as earlier proposed. ... Laos initiated the development project a few years ago as a source of funding to build the National Stadium and other facilities to host the 25th SEA Games last December. The project was made possible under the government’s policy to convert land into capital (VT 25 Nov. 2010, Major urban development gets underway in Vientiane).”

2011

March 2011: TLIC is invoked as part of a citywide effort “to become ‘developed’ by 2015”: “A scheme to convert land into capital and commercial ventures will be expanded to further boost development” between 2011 and 2015 (VT 9 Mar. 2011, Vientiane looks to become ‘developed’ by 2015).

June 2011: The UNDP links implementation of the TLIC policy to the erosion of national sovereignty:

“A United Nations Development Programme (UNDP) economist has expressed concerns over the possibility of significant foreign ownership of land in Laos as the government looks to implement a policy to convert land into capital. UNDP Laos Resident Economist Mr. Robert Glofcheski said at a National Investment Strategy Workshop in Vientiane last month that the Lao government should apply the Investment Promotion Law with great care due to the possibility that foreign investors could own large areas of land in Laos. ... He explained that land concessions may have serious implications regarding wealth concentration and could widen inequality, and that this would impact the long-term sovereignty of the country (VT 2 June 2011, Government urged to use caution over foreign land ownership).”

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- ¹ Central Committee of the Lao People's Revolutionary Party. No. 026/CC. 2017. Resolution of the Party's Central Committee on the Enhancement of Land Management and Development in New Period.
- ² Dwyer, M. 2007. *Turning Land Into Capital: A Review of Recent Research on Land Concessions for Investment in Lao PDR*. Vientiane: Land Issues Working Group.
- ³ KPL News, 6 July 2016, PM urges evaluation of the Turning Land Into Capital policy. TLIC is not a typical policy because it was never formulated as a written, officially endorsed, and specific policy documented. Thus, it remains unclear and perhaps does not deserve to be referred to as a "policy". However, we use the term "policy" throughout the paper because (i) it is referred to as such by the government and (ii) it acts as a policy in practice because it operates as a form of state directive or guidance, shaping legislative changes and governmental action.
- ⁴ Central Committee of the Lao People's Revolutionary Party. No. 026/CC. 2017. Resolution of the Party's Central Committee on the Enhancement of Land Management and Development in New Period.
- ⁵ Formerly, the Land Issues Working Group
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- ⁹ Phomvihane 1988 ("Renovation and development", *Pravda*); Gunn 1990 (*Rebellion in Laos: Peasant and Politics in a Colonial Backwater*); Stuart-Fox 1995 ("The French in Laos, 1887–1945", *Modern Asian Studies*); Evans 2002 (*A Short History of Laos: The Land in Between*); Ivarsson 2008 (*Creating Laos: The Making of a Lao Space between Indochina and Siam, 1860–1945*)
- ¹⁰ Thongphachanh & Birgegard 1982 ("Muong Paksane Regional Development Study, Vol. 1: Main characteristics of Muong Paksane, Proposed long-term development strategy, Proposals for action", Lao-Swedish Forestry Project, Vientiane); Persson 1983 (*Forestry in Laos*, self-published); Ireson & Ireson 1991 ("Ethnicity and development in Laos", *Asian Survey*); Trankell, 1993 (*On the Road in Laos: An Anthropological Study of Road Construction and Rural Communities*)
- ¹¹ Anonymous 2000 ("Aspects of forestry management in the Lao PDR", *Watershed*, pp. 63 & 60)
- ¹² Phonesack Group 2014 (online company [profile](#), pp. 7 & 2)
- ¹³ PM decree 03, 1996 (article 5); PM order 11, 1999 (cited in Anon 2000, note 6, p. 60)
- ¹⁴ Schoenweger et al. 2012 (*Concessions and leases in the Lao PDR: Taking Stock of Land Investments*, p. 27)
- ¹⁵ Schoenweger et al. (pp. 17, 27, 31, 34, 40)
- ¹⁶ Schoenweger et al. (note 9, p. 83)
- ¹⁷ Dwyer 2013 ("Building the politics machine: Tools for 'resolving' the global land grab", *Development and Change*)
- ¹⁸ See Annex 1 for details.
- ¹⁹ Vientiane's That Luang Marsh project and 450 Year Road project comprise the bulk of these references, highlighting the important role that urban land conflicts have played in creating explicit discussion of policy by government spokespeople. Rural references to TLIC were much rarer, although not absent entirely; see Annex 1.
- ²⁰ Baird 2010 ("Land, Rubber and People: Rapid Agrarian Changes and Responses in Southern Laos", *Journal of Lao Studies*, p. 30)
- ²¹ Schumann et al. 2006 ("Study on State Land Leases and Concessions in Lao PDR", *GTZ*, p. 4)
- ²² Phouthonsy 2006a (Petition for fences, buffalo grazing space, 14 August) and 2006b (Farmers cannot live without buffaloes, 11 September); also see Friis et al. 2016 ("Changing local land systems: Implications of a Chinese rubber plantation in Nambak District, Lao PDR", *Singapore Journal of Tropical Geography*) on the same case.
- ²³ Schoenweger et al. (cited above). The inventory is strongest in its core focus on these three sectors, and is somewhat confusing toward the edges of its scope. Neither logging nor hydropower is covered (p. 75), despite putative inclusion of the "forestry" and "electricity" sectors.
- ²⁴ In addition to the examples here, also see Annex 1.
- ²⁵ Vientiane Times 2009 (450 Year Road forges ahead, 2 February)
- ²⁶ Vientiane Times 2008 (Government sets That Luang marsh compensation fees, 25 August)

²⁷ See Annex 1.

²⁸ Vientiane Times 2009 (Government again suspends land concessions, 2 July)

²⁹ See Glofcheski 2010 (Some Perspectives on the New Draft NSEDP 2011-15); Vientiane Times 2012 (NA members vow to strengthen oversight of government, 21 December); Vientiane Times 2013 (Land compensation tops parliament debate, 26 July)

³⁰ RRI 2012 (Press release: “Laotian government presses ahead with land policy”, 28 August); Vientiane Times 2013 (Full land rights policy expected); Vientiane Times 2014 (Govt aims to deal with land disputes)

³¹ Vientiane Times 2017 (PM vows to address chronic land issues)

³² Vientiane Times 2015 (Laos-China rail expected to begin construction in November, 28 September)

³³ “Some state organizations are holding two separate bank accounts, which resulted in problems such as the fact not all revenue collected from technical services and timber sales by state bodies has flowed into a centralized account, as required by financial regulations.” (Vientiane Times, State auditor uncovers billions in revenue, unapproved spending, 7 January 2014)

³⁴ Vientiane Times 2017 (Road fund sparks rising concerns about costs, 6 July) refers to a billion dollars in current debt, this is only for roads in the Vientiane area.

³⁵ Hett et al. 2015 (“Land deals In Laos: First insights from a new nationwide initiative to assess the quality of investments in land”, LDPI conference paper, pp. 5, 16–17)

³⁶ On land titling (type 4), see Dwyer, M. (2017). Land and Forest Tenure in Laos: Baseline Overview 2016 with Options for Community Participation in Forest Management. UN REDD Programme: FAO, UNDP and UNEP. Available at <http://www.unredd.net/documents/redd-papers-and-publications-90/un-redd-publications-1191/16178-land-and-forest-tenure-in-laos-baseline-overview-2016-with-options-for-community-participation-in-forest-management.html>

³⁷ FSCAP. 2014. Draft Forestry Strategy to the Year 2020 Review Report: Synthesis report, p. 27.

³⁸ VT 2015-07-08, “Poor accounting hollows out timber revenues”

³⁹ VT 2015-11-13, “Lao furniture association seeks expanded wood quota”

⁴⁰ VT 2015 (Poor accounting hollows out timber revenues, 8 July)

⁴¹ This lack of quantitative analysis was confirmed in interviews by the author in the first half of 2017.

⁴² Schoenweger et al. (cited above), p. 75.

⁴³ Hett et al. 2015 (cited above)

⁴⁴ Schumann et al. 2012 (“Study on State Land Leases and Concessions in Lao PDR. Land Policy Study No. 4 under LLTP II”), p. 12

⁴⁵ Vientiane Times. 2017. Government pledges fairer land compensation

⁴⁶ Vientiane Times 2015 (Government beefs up oversight of state-funded projects, 16 January)

⁴⁷ This is an edited version of Appendix 2 from Dwyer 2011 (*Territorial Affairs: Turning Battlefields into Marketplaces in Postwar Laos*, Doctoral Dissertation in Energy and Resources, University of California, Berkeley).

